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**ORAL SUBMISSIONS MADE TO THE TRUTH, JUSTICE AND
RECONCILIATION COMMISSION ON MONDAY, 26TH
SEPTEMBER, 2011 AT THE ACK ALL SAINTS CHURCH HALL,
NAIVASHA**

PRESENT

Berhanu Dinka	-	The Presiding Chair, Ethiopia
Tecla Wanjala Namachanja	-	The Acting Chair, Kenya
Gertrude Chawatama	-	Commissioner, Zambia
Tom Ojienda	-	Commissioner, Kenya

SECRETARIAT

Bellinda Akello	-	Leader of Evidence
Simon Njenga	-	Hearing Clerk

IN ATTENDANCE

Mary Onyango	-	Deputy Chairperson, NCIC
Dr. Samuel Tororei	-	Commissioner, KNCHR

(The Commission commenced at 9.50 a.m.)

*(The Presiding Chair (Commissioner Dinka) introduced himself
and other TJRC Commissioners)*

The Presiding Chair (Commissioner Dinka): Good morning. After considerable time thinking of coming to Naivasha, the TJRC commissioners are here and will hold meetings today and tomorrow. I would like to say a few words in terms of the rules and procedures of our hearings. These rules must be observed at all times while the Commission is sitting in public.

The first one is that you switch off your mobile phones. Do not leave them on silent mode. Secondly, the witnesses may say things that you do not approve of or do not agree with. However, you are expected to remain courteous at all times and listen to the testimony of the witnesses and give them the respect that they deserve.

Those taking still pictures are expected not to use flash lights while the testimony is being given. They can use the flash lights before or after the testimony is completed.

The witness will be sworn in by the Clerk and then the Leader of Evidence will ask questions and guide the witness in the testimony. Once that is done, the commissioners,

if they find it necessary to feel certain gaps in the information, they could ask some questions.

I call upon the Clerk to bring in the first witness. Before I do so, allow me to recognize the presence of Commissioner Mary Onyango of the National Cohesion and Integration Commission.

(Ms. Elizabeth Wanjiku Kariuki took the oath)

Ms. Bellinda Akello: Presiding Chair, the witness before us is No.8 on our list. We welcome you to this session. Kindly state your names for the record.

Ms. Elizabeth Wanjiku Kariuki: My names are Elizabeth Wanjiku Kariuki.

Ms. Bellinda Akello: How old are you?

Ms. Elizabeth Wanjiku Kariuki: I am 81 years old.

Ms. Bellinda Akello: Where do you stay currently?

Ms. Elizabeth Wanjiku Kariuki: I live at my husband's place in Mirera.

Ms. Bellinda Akello: How long have you been living there?

Ms. Elizabeth Wanjiku Kariuki: I have lived there for about three years.

Ms. Bellinda Akello: Prior to the three years that you stayed in Mirera, where were you living before?

Ms. Elizabeth Wanjiku Kariuki: I was living in Molo, but after being evicted, I left.

Ms. Bellinda Akello: Who evicted you from Molo?

Ms. Elizabeth Wanjiku Kariuki: It is war that made me leave the place. My husband was killed.

Ms. Bellinda Akello: What was the war about? Do you remember which year this took place?

Ms. Elizabeth Wanjiku Kariuki: I cannot tell clearly. I just found the war going on there.

Ms. Bellinda Akello: Do you know who was fighting who?

Ms. Elizabeth Wanjiku Kariuki: I cannot tell.

Ms. Bellinda Akello: Can you remember what year it was?

Ms. Elizabeth Wanjiku Kariuki: I do not think I can remember.

Ms. Bellinda Akello: When this war happened, can you tell us the events that took place? Were you there? What did you see? Did you run away? Where did you run to?

Ms. Elizabeth Wanjiku Kariuki: We ran to Molo Town after they burnt down our house. I cannot actually tell who killed him. Actually, I was shielded by the people who were protecting us. They are the same people who told us that my husband was dying. I cannot really tell who killed him because I was running for my dear life..

Ms. Bellinda Akello: Where did you seek refuge until you were told your husband had passed on?

Ms. Elizabeth Wanjiku Kariuki: We went to hide at 220 Farm. That is where we were staying.

Ms. Bellinda Akello: What is the name of your late husband?

Ms. Elizabeth Wanjiku Kariuki: He called himself Kamau Chege. However, his real name is Justus Kariuki.

Ms. Bellinda Akello: How many children do you have?

Ms. Elizabeth Wanjiku Kariuki: I have seven children but three passed away.

Ms. Bellinda Akello: Did any of your children go to see where your husband was after it was reported that his life was in danger?

Ms. Elizabeth Wanjiku Kariuki: They went the following day and found he had been murdered. His head was actually missing.

Ms. Bellinda Akello: What about his body? Was it taken to the mortuary?

Ms. Elizabeth Wanjiku Kariuki: No, he was not taken to the mortuary. We just buried him. There was no adequate time. He was a church fellow. During that time, we had domestic problems. Because of the wrangles in the family, the burial could not have been done by the church.

Ms. Bellinda Akello: Do you have a marriage certificate?

Ms. Elizabeth Wanjiku Kariuki: Yes, I had a marriage certificate.

Ms. Bellinda Akello: At the time of your husband's death, who was keeping for you your marriage certificate?

Ms. Elizabeth Wanjiku Kariuki: I am the one who had it.

Ms. Bellinda Akello: Did the pastor of the church you attend ever keep for you the marriage certificate?

Ms. Elizabeth Wanjiku Kariuki: It is only the photograph that we were taken that I have. Our three houses were burnt.

Ms. Bellinda Akello: How comes your documents never got burnt?

Ms. Elizabeth Wanjiku Kariuki: They got burnt but I still have my wedding certificate.

Ms. Bellinda Akello: Did you report your husband's death to the police?

Ms. Elizabeth Wanjiku Kariuki: No, I did not because I did not want to go and lie.

Ms. Bellinda Akello: Why do you think you would lie if you reported to the police?

Ms. Elizabeth Wanjiku Kariuki: No. I did not lie. Maybe I have confused what I have said.

Ms. Bellinda Akello: Take your time. We can always repeat the question.

Ms. Elizabeth Wanjiku Kariuki: Maybe I just talked without knowing.

Ms. Bellinda Akello: Did you report the death of your husband to the police when you found his body?

Ms. Elizabeth Wanjiku Kariuki: No, I did not report to the police.

Ms. Bellinda Akello: Did you ask your children to report the death of their father to the police?

Ms. Elizabeth Wanjiku Kariuki: No, I did not.

Ms. Bellinda Akello: Why not?

(Silence)

Ms. Bellinda Akello: It is okay, Elizabeth, if that makes you uncomfortable. Who is the person you came with here today?

Ms. Elizabeth Wanjiku Kariuki: Her name is Mary Nyakio.

Ms. Bellinda Akello: We want to thank you very much for coming to this session today. We salute your courage.

I will now hand you over to the commissioners. Do you have anything else you would like to say?

Ms. Elizabeth Wanjiku Kariuki: All the property we had was burnt. They killed him and they took the property. They burnt our medicine and pyrethrum which was in the granary. My husband was a carpenter. They took our goats and cows and burnt our three houses. They took 60 sacks of maize from our granary. They also took our bicycle, a cupboard, 25 goats, beds and everything else.

Ms. Bellinda Akello: Thank you, *mama*. That will be all from me.

The Presiding Chair (Commissioner Dinka): Thank you, Leader of Evidence, and *Mama* Elizabeth. We very much empathize with the suffering and loss of property. You must be a courageous lady for you to come over to tell us this story. This is a very painful experience. I have no question, but I will ask my colleagues to ask you questions if they have any.

Commissioner Farah: *Mama* Wanjiku, as the Presiding Chair has said, we empathize with your condition. Because of your advanced age, you may not remember some things. We have your statement and we have heard your answers to the questions posed by the Leader of Evidence. I will seek clarification but it is okay if you do not remember.

Is it true that your husband was killed in the 1992 clashes?

Ms. Elizabeth Wanjiku Kariuki: Yes, that is when he was killed. He is not the only one who was killed.

Commissioner Farah: I understand that. Is it true that your village was somewhere in Molo?

Ms. Elizabeth Wanjiku Kariuki: Yes. Even our land is still there.

Commissioner Farah: You are certain that the people who killed your husband were known as Kalenjin warriors?

Ms. Elizabeth Wanjiku Kariuki: Yes, they are the people who did that.

Commissioner Farah: Can you confirm to the Commission that since then, you have lived here in Naivasha with your daughter?

Ms. Elizabeth Wanjiku Kariuki: Yes, I can confirm that.

Commissioner Farah: Did you manage to get your children back to the farm between 1992 and 2007, when there was the post-election violence?

Ms. Elizabeth Wanjiku Kariuki: No, they cannot even accept to go back there because we are very near the Kalenjin.

Commissioner Farah: Do you remember the 1997 clashes?

Ms. Elizabeth Wanjiku Kariuki: I can only remember the 1992 clashes.

Commissioner Farah: I have no further question. I empathize with you. We are sorry for the death of your beloved husband.

Commissioner Chawatama: *Mama* Wanjiku, thank you for your testimony. I am not a Kenyan. So, some of the questions I might ask would not be asked by my colleagues. Please, briefly, tell me what living in Kenya was like when you were a young girl.

Ms. Elizabeth Wanjiku Kariuki: When I was a young girl, the country was not like it is today. There was peace but later peace faded. This issue of inciting people to kill others is not good. For example, telling the Kikuyu to go back to Murang'a or Nyeri is not good. It is not that there is land available there. This is a sad story. Even before God, we have to remember Kenya. It is like there is no sympathy and peace in Kenya any more.

Commissioner Chawatama: Did you have any friend who got married to men from a different tribe?

Ms. Elizabeth Wanjiku Kariuki: My husband was Kikuyu which is also my tribe. Before, no young girls were getting married to people of another tribe. Currently, they are getting married to people of different tribes.

Commissioner Chawatama: What do you think of that?

Ms. Elizabeth Wanjiku Kariuki: It is a hard thing. There is a child who was being told not to marry from a different tribe – I am talking of Samson and Delilah. I believe his eyes were poked out because he married from another tribe. I believe that if you marry from another tribe, you are bound to get difficulties.

Commissioner Chawatama: Is this something you have experienced? Samson and Delilah are from the Bible.

Ms. Elizabeth Wanjiku Kariuki: Yes, I have had those who married from different tribes, but later on they still go to their native land.

Commissioner Chawatama: It has been noticed that every time the country has had elections, there has been some trouble. What is your message to the young Kenyans on living peacefully and reconciling with others?

Ms. Elizabeth Wanjiku Kariuki: When the country is peaceful, it is economically okay. However, if there is no peace, there is cold war and people are not the same. There are those from other tribes who are good. There are also those who intermarry and live peacefully.

Commissioner Chawatama: What do you think it would take to reconcile tribes, for example, the Kalenjin and Kikuyu?

Ms. Elizabeth Wanjiku Kariuki: I cannot actually tell what got into their minds to start violence. We have lived with these people for a very long time now. The best thing is that we keep praying and God will change their hearts. God is very powerful.

Commissioner Chawatama: Thank you for answering my questions. We also pray with you.

The Acting Chair (Commissioner Namachanja): *Mama* Wanjiku, we are very sorry for what you have undergone, especially the way your husband lost his life. Who is living on your land at Murundiko?

Ms. Elizabeth Wanjiku Kariuki: There is no one living there.

The Acting Chair (Commissioner Namachanja): How big is the land?

Ms. Elizabeth Wanjiku Kariuki: It is about three-and-a-half acres.

The Acting Chair (Commissioner Namachanja): What do you have to say about this particular farm?

Ms. Elizabeth Wanjiku Kariuki: If it is possible, I would rather sell the land because nobody is comfortable to live there. We are near them. We border the Kalenjin there.

The Acting Chair (Commissioner Namachanja): What about the title deed to this land?

Ms. Elizabeth Wanjiku Kariuki: After the clashes, I took the title deed to the bank.

The Acting Chair (Commissioner Namachanja): You said that when the war broke out, you went to one school where a teacher took you in. Where were you sleeping before that?

Ms. Elizabeth Wanjiku Kariuki: I was sleeping on the ground in the school.

The Acting Chair (Commissioner Namachanja): You were not alone.

Ms. Elizabeth Wanjiku Kariuki: I was in the company of the people we were evicted with.

The Acting Chair (Commissioner Namachanja): What about the title deed to this land?

Ms. Elizabeth Wanjiku Kariuki: After the war, I took the title deed to the bank. So, it is safe in the bank.

The Acting Chair (Commissioner Namachanja): Thank you very much for taking courage. You are saying that when the war broke out, you went to one of the schools where you were staying until one teacher adopted you. Before the teacher took you, where were you sleeping?

Ms. Elizabeth Wanjiku Kariuki: We were sleeping on the ground in the school.

The Acting Chair (Commissioner Namachanja): So, you were not alone; there were several other people?

Ms. Elizabeth Wanjiku Kariuki: Yes, I was with the other people we were evicted with.

The Acting Chair (Commissioner Namachanja): Thank you very much, *mama*. That is the clarification I wanted to get from you. Thank you very much for coming before this Commission.

Ms. Elizabeth Wanjiku Kariuki: I also say thank you.

Commissioner Ojienda: Thank you very much, *Mama* Elizabeth. You were clearly an octogenarian with a clear mind; an outstanding intellect. You were a victim who suffered the pain of the loss of your husband. Before this Commission this morning, you have relived the experiences and pain of the 1992 inter-tribal clashes. We have seen your golden tears. In our recommendations, you and this country will find lasting peace. That is not just for your community and that of the Kalenjin but also for the other communities. We desire a country where all of us can live in peace.
Thank you.

Commissioner Shava: *Mama* Elizabeth, I just want to ask you a few questions. I know that you must be tired. Where were you born?

Ms. Elizabeth Wanjiku Kariuki: I was born in Gilgil.

Commissioner Shava: You said that your husband was born in Kangema.

Ms. Elizabeth Wanjiku Kariuki: Yes, he was born in a place called Rwathia.

Commissioner Shava: What was his name?

Ms. Elizabeth Wanjiku Kariuki: His name is Justus Kariuki but he had given himself another name Kamau Chege.

Commissioner Shava: Have you received any assistance from the Government as a fund for the elderly or women? Have you received any of this money?

Ms. Elizabeth Wanjiku Kariuki: I have never gotten any assistance from the Government.

Commissioner Shava: Did you register to receive the Ksh25, 000?

Ms. Elizabeth Wanjiku Kariuki: Not yet.

Commissioner Shava: So, it is just your son and daughter-in-law who help you?

Ms. Elizabeth Wanjiku Kariuki: Yes, I am assisted by my daughter. Even the ACK Church gives me support.

Commissioner Shava: Thank you very much.

The Presiding Chair (Commissioner Dinka): Thank you very much again, *Mama Elizabeth*, for your testimony. Clerk, you can step down the witness and call the second one.

(Ms. Elizabeth Wanjiku Kariuki was stood down)

As the Clerk is calling in the next witness, I would like to take the opportunity to recognize the presence of Commissioner Dr. Tororei from the Kenya National Commission for Human Rights, which is also our partner Commission. Commissioner Dr. Tororei, welcome.

(Ms. Martha Njeri Shadrack took the oath)

Ms. Bellinda Akello: Presiding Chair, just for the record, we are now dealing with Witness No.9 in your list. It is also good for us to note that the current witness has a child who is unwell. So, we shall rely on a lot of the information already provided rather than confirm the same because she also has a medical appointment.

The Presiding Chair (Commissioner Dinka): Go ahead.

Ms. Bellinda Akello: We welcome you to this session. Kindly, for the record, state your three names.

Ms. Martha Njeri Shadrack: My names are Martha Njeri Shadrack. I live in Karati. I have lived there since we were evicted on 30th. No, actually, we arrived here around 22nd January.

Ms. Bellinda Akello: Sorry, which year did you get to Karati?

Ms. Martha Njeri Shadrack: I came from Mau Summit.

Ms. Bellinda Akello: When did you leave Mau Summit for Karati?

Ms. Martha Njeri Shadrack: I came here on 21st January, 2008.

Ms. Bellinda Akello: For how long had you lived in Mau Summit before moving to Karati?

Ms. Martha Njeri Shadrack: I had lived in Mau Summit since 1975.

Ms. Bellinda Akello: In Karati, do you have any responsibility or what do you do?

Ms. Martha Njeri Shadrack: No. I have just been given a place by my neighbour who I found there. I do not have any stable job.

Ms. Bellinda Akello: Do you have any form of responsibility over the people who stay at Karati with you?

Ms. Martha Njeri Shadrack: Yes, I am helping a group of Internally Displaced Persons (IDPs) on issues to do with the Government.

Ms. Bellinda Akello: How do you help them? Is it as a Good Samaritan? Have they bestowed any responsibility or any particular job on you?

Ms. Martha Njeri Shadrack: I do not give them anything; I forward their cases to the DO, Chief and District Commissioner (DC). It is called Karati IDP Squatters. I am the chairlady.

Ms. Bellinda Akello: How big is your group? What is the membership or number of your group right now?

Ms. Martha Njeri Shadrack: We are about 132 people. They are individual members.

Ms. Bellinda Akello: Did you all come from Mau Summit or from different areas?

Ms. Martha Njeri Shadrack: No, they came from different areas and not specifically from Mau Summit.

Ms. Bellinda Akello: For instance, which areas do you come from?

Ms. Martha Njeri Shadrack: From Eldoret, Steto, Molo Town and Elburgon.

Ms. Bellinda Akello: You had earlier in the statement indicated that you also have people from Olenguruone. Is that correct?

Ms. Martha Njeri Shadrack: We also have some people from Olenguruone.

Ms. Bellinda Akello: You also indicated that you have people from Kisumu. Is this correct?

Ms. Martha Njeri Shadrack: Yes.

Ms. Bellinda Akello: Very briefly, tell us about the Karati IDP Squatters Self-help Group. What issues do you tackle as a group?

Ms. Martha Njeri Shadrack: The reason we formed the IDP group is because the Government was not concerned about us. We had been told that we would be given Ksh10, 000 but we have never been given. We had also been told that we would be given food and support but it has never happened. So, no one has ever come to our rescue. That is why we decided to form the IDP group as a way of trying to reach the Government through other means.

Ms. Bellinda Akello: After forming the group, can you now get services from the Government?

Ms. Martha Njeri Shadrack: Yes. We have gone to the DO, Chiefs and now we are dealing with you so that you can give us support.

Ms. Bellinda Akello: As a group, did you get help from the DO and Chief?

Ms. Martha Njeri Shadrack: At the moment, we have not received any assistance but they have promised to get us land. But we have not received any information from outside people.

Ms. Bellinda Akello: When you went to the DO, what were the prayers you had? Did you just seek land? What else were you seeking from the DO's office?

Ms. Martha Njeri Shadrack: We wanted to be given the Ksh10, 000 like the other people and land, or, at least, be assisted with the education of our children who were at school or be compensated for the loss of the property. That was our main agenda.

Ms. Bellinda Akello: (*inaudible*)

Ms. Martha Njeri Shadrack: We have about 300 children.

Ms. Bellinda Akello: Martha, you informed me that you have 132 members and now you say that you have 300 children. When you say members, do you mean adults?

Ms. Martha Njeri Shadrack: And about three who are sick.

Ms. Bellinda Akello: Martha, can I confirm that you said 300 children?

Ms. Martha Njeri Shadrack: They are 300 children and three sick children who had some fractures.

Ms. Bellinda Akello: Your group has more than 132 members?

Ms. Martha Njeri Shadrack: Yes, it has more than 132 because some have not even joined. They are outside there and do not have a chance to join the group.

Ms. Bellinda Akello: Martha, have you registered these 300 children with the Children's Officer in Naivasha? Do they have a list of the names of the children?

Ms. Martha Njeri Shadrack: Yes, we have registered the children. We are a family of about 603.

Ms. Bellinda Akello: You are 603 what? Is it the number of members in the group or the families that you have?

Ms. Martha Njeri Shadrack: The 132 are the members. The others are not registered but they are still there. That is what is making up the figure.

Ms. Bellinda Akello: Martha, tell us very briefly what is the process of becoming a registered member of your group?

Ms. Martha Njeri Shadrack: You follow the following steps. We usually enrol you into the group and you make a subscription of Ksh120 every month. Sometimes, we even contribute about Kshs1,000 so that we can attend various meetings. As a chairlady, they gave me about Ksh100 as fare to come here. We also assist each other in the group in terms of drugs for the children or in support of school fees for children, especially if the parent cannot support the child. We also support in cases of funerals. Currently, we have exhausted all our resources. That is why we are asking for lobbying from the Government.

Ms. Bellinda Akello: Thank you very much, Martha, for the insight. So, it means that the 603 are those who have not managed to pay the monthly Ksh120 subscription and that is why you are not giving us the figure as 132?

Ms. Martha Njeri Shadrack: Exactly. That is the truth.

Ms. Bellinda Akello: Those 132 registered members, do they have families? What is the average size of a family? Are those family members counted as members once one person has registered?

Ms. Martha Njeri Shadrack: For example, I have seven children. So, that is one member with seven children. So, when you count about 132 members and their families, that is when you will see that it is a big figure.

Ms. Bellinda Akello: So, it is one membership?

Ms. Martha Njeri Shadrack: Yes, the membership card is one. You register a family as a member and not the entire family.

Ms. Bellinda Akello: So, if you are a member, are your seven children also members?

Ms. Martha Njeri Shadrack: No, my children are not members. It is only me.

Ms. Bellinda Akello: Thank you very much, Martha. I think now we get a better picture. So, you have 132 households and one member of every family is the registered person. Among your people in Karati IDP Squatters, we have those who have not become members; they have not followed the criteria that you outlined.

Ms. Bellinda Akello: (*Interpretation hitch*)

Ms. Martha Njeri Shadrack: We do not assist non-members with drugs. This is because, apparently, they have not contributed anything, but we still work with them as a group but not in terms of finances.

Ms. Bellinda Akello: In Karati IDP Camp, are all of you living in a given area or are you integrated into families?

Ms. Martha Njeri Shadrack: No, we are integrated as one group.

Ms. Bellinda Akello: Are you living in a camp, such that if we went to look for Karati IDPs, we would find you together?

Ms. Martha Njeri Shadrack: Yes, if you come, you will meet us but we have to call each other so that we meet you. We are just like in a village.

Ms. Bellinda Akello: Did you have families of people who were staying in Karati before?

Ms. Martha Njeri Shadrack: Like for me, I am not living with someone. I am living alone near the Chief's office but the others have been given some places to stay and the others have rented houses.

Ms. Bellinda Akello: Martha, you registered your group under which Ministry?

Ms. Martha Njeri Shadrack: We just formed a group and did casual registration, not through the Ministry.

Ms. Bellinda Akello: Do you have any documents for registration of your group?

Ms. Martha Njeri Shadrack: I did not carry the documents because I did not have clear information whether I needed to carry the documents but they are there.

Ms. Bellinda Akello: There are documents that you have previously given the Commission. I want to show you some of the documents for you to confirm if they are the ones. First, we have a document called “Application for registration of self-help group under the Ministry of Gender, Children and Social Development.” Kindly confirm that this is a document from your group.

Ms. Martha Njeri Shadrack: Yes, I have them.

Ms. Bellinda Akello: Is this the document that you gave to the Commission?

Ms. Martha Njeri Shadrack: Yes.

Ms. Bellinda Akello: Second, we have a certificate of registration of a self-help group or project also confirmed by the Ministry of Gender, Children and Social Development. Kindly confirm that this is also from your group.

Ms. Martha Njeri Shadrack: I confirm.

Ms. Bellinda Akello: Presiding Chair, we pray to have the two documents; the application and certificate of registration to be admitted as part of the record.

The Presiding Chair (Commissioner Dinka): They are so admitted.

Ms. Bellinda Akello: Thank you very much. Martha, maybe the last issue for you to clarify is; what recommendations or kind of help has Karati IDPs/Squatters Self-help Group would you seek from the TJRC this morning? What prayers do you have?

Ms. Martha Njeri Shadrack: I would like to be assisted in terms of land because we do not have land. We had gone there as business people. I was born in Londiani. I would like this Commission to help us, especially in relation to the children who have fractures. At least, give them blankets. Where we live, we also have children who are in school. These children are suffering because at times they have to go and feed or support themselves. Also, our children have left school and started working as laborers. We would really like assistance in relation to that. We would also like the Ksh10, 000 that was promised to be awarded to us because we have been looking for it. We are calling upon the TJRC to assist us in relation to that. We would also like the Government to assist us because it is not adhering to its promises.

Ms. Bellinda Akello: In your capacity as chairlady for this group, when you say that you would like land, would you like land to be resettled newly – maybe where you are staying now at Karati or would you like the Government to facilitate you to go back to where you used to be before you fled?

Ms. Martha Njeri Shadrack: We would like land to be bought at the place we are currently. This is because even if we are resettled at our initial place, we do not think that we will mingle very well with the people there.

Ms. Bellinda Akello: So, you would not like to go back to Mau Summit where you came from?

Ms. Martha Njeri Shadrack: I would not like to go back there because even the 1992 clashes evicted me from there. Then again, in 1997 and 2007, I was evicted. So, I keep going to and fro and every time I incur losses in terms of property. So, I would not wish to go back there.

Ms. Bellinda Akello: I want also to assume that the people of your group have also been facing the same kind of evictions in all election years.

Ms. Martha Njeri Shadrack: Every time there is a General election, we always have the same process repeated.

Ms. Bellinda Akello: I have one last question maybe just to understand your recommendation better. If you feel that there have been evictions in every election year, what do you think has been the root cause of this and why is Karati a different place to live in, because you seem to be confident about Karati being a stable home? What exactly were you running away from Mau Summit that you have found in Karati?

Ms. Martha Njeri Shadrack: In Karati, there is peace but at Mau Summit, if you keep a domestic animal, tomorrow it will be gone. In 1992, for example, we did not leave the place with any property. Even children's clothing and property were taken away. But at Karati, there is some peace.

Ms. Bellinda Akello: Thank you very much. I also want to confirm that the people in Eldoret, Molo, Elburgon, Olenguruone and Kisumu have also faced the recurrent evictions that you have talked about. Have they also been recurrently evicted?

Ms. Martha Njeri Shadrack: No, they were evicted only this time. But, , they had not been evicted previously.

Ms. Bellinda Akello: (*interpretation hitch*)

Ms. Martha Njeri Shadrack: They also claim that they cannot go back there.

Ms. Bellinda Akello: You say that children have traumatic dreams. Have you, as a group, ever sought for the counseling of the children and women in your group?

Ms. Martha Njeri Shadrack: No, we have not received any form of counseling.

Ms. Bellinda Akello: Thank you very much, Martha. Presiding Chair, that is all from the Leader of Evidence.

The Presiding Chair (Commissioner Dinka): Thank you very much, Leader of Evidence and Martha. I would now like to hand you over to my colleagues to ask you any question.

Commissioner Ojienda: Thank you, Martha, for your testimony and highlighting the state of the Karati IDPs. I note that the group has registered as a big membership. I just want to find out whether you have met any of the objectives which you had set out to achieve. You wanted to buy land, rear goats and rabbits.

Ms. Martha Njeri Shadrack: We have not yet achieved our objectives because we mostly take children to hospital. So, apparently, we have not achieved any objective because we have not received any external support.

Commissioner Ojienda: You have said that not all the members of this group previously owned land.

Ms. Martha Njeri Shadrack: Yes, we did not have land before. Even now, I still do not have land. I am usually in small business.

Commissioner Ojienda: But you would want to be resettled?

Ms. Martha Njeri Shadrack: We would like a place to stay and settle.

Commissioner Ojienda: So, your main recommendation to the Commission is to recommend resettlement for members of your group?

Ms. Martha Njeri Shadrack: Yes, we want resettlement. That is actually our main objective; that the Government gives us a place to settle so that we can get our daily bread without nagging anybody. We can be independent.

Commissioner Ojienda: Do you think that there can be peace in Rift Valley?

Ms. Martha Njeri Shadrack: Yes, there can be peace if the Government works together with the people and also we come together to preach and campaign for peace. But if we—the Kalenjin and Kikuyu – do not campaign for peace then there will never be peace. This is because every time there is an election, there is always violence. So, we have to campaign for peace before the elections start.

Commissioner Ojienda: What are your thoughts about the 2012 elections?

Ms. Martha Njeri Shadrack: In my opinion, if we do not look critically into the issues of peace, then violence will erupt again. Like people who are needy, if we do not look at the aspect of peace, then violence will break out again. So, we have to preach peace. Also, you have to come and reconcile people and bring peace.

Commissioner Ojienda: How is Naivasha right now?

Ms. Martha Njeri Shadrack: Here in Naivasha, there is no problem. We still have the Luo and Kalenjin - it is a cosmopolitan society – and we need to sit down like the way we are in this forum and mingle together and come to an agreement. Unless we come to an agreement, then there will never be peace. We are calling upon God to help us build peace, because without God, nothing can progress.

Commissioner Ojienda: You must have heard of the word “The Hague”?

Ms. Martha Njeri Shadrack: Yes, I have heard about it and I am not afraid to even go there.

Commissioner Ojienda: How do you understand it?

Ms. Martha Njeri Shadrack: I know that it is like a jail or a court which handles major cases. I usually say that I am not afraid even to witness, confess or give a testimony in relation to the post-election violence.

Commissioner Ojienda: Martha, thank you. I just want to preach my message of peace and I do this at every opportunity. This process intends to reconcile communities and ensure that people like you get justice.

Ms. Martha Njeri Shadrack: I concur with you.

Commissioner Ojienda: In the end, we will make recommendations on reparations or prosecutions and further investigation. So, as members of the group, I want you to just take that message of peace amongst your members; that all Kenyans are equal and can live with one another. That is my wish for Naivasha.

Ms. Martha Njeri Shadrack: We will live as you say.

Commissioner Shava: Thank you very much, Martha, for coming before us today. I would just like to know if you know any other IDPs apart from your own Karati group, who came from anywhere else in Kenya, but are not living ---

Ms. Martha Njeri Shadrack: Yes, there are some at a place called Gatamaiyu.

The Presiding Chair (Commissioner Dinka): Thank you very much, Martha, for your testimony. You said that most of you came from Uasin Gishu, Olenguruone, Kisumu and

Molo. Your members came from these four or five areas. Are there other people who do not belong to your group that are IDPs?

Ms. Martha Njeri Shadrack: We are all members of that group.

The Presiding Chair (Commissioner Dinka): Are there people who are not IDP squatters but are integrated?

Ms. Martha Njeri Shadrack: All of them are IDPs.

The Presiding Chair (Commissioner Dinka): You mentioned that previously before post-election violence you were a business woman. However, you are now asking for land.

Ms. Martha Njeri Shadrack: Yes, I want land because the Government promised to give us land.

The Presiding Chair (Commissioner Dinka): But you were not a farmer but a business woman. Why do you want land? Would you not need some funds to restart your business?

Ms. Martha Njeri Shadrack: Even that time I was doing business and, or working so that I could get money to buy land. However, my property was destroyed. I no longer have funds to purchase land. That is why I want the Government to give me land.

The Presiding Chair (Commissioner Dinka): In other words, even if you get funds, you do not want to go back to business. You want to become a farmer? Is that so?

Ms. Martha Njeri Shadrack: Yes, I want to become a farmer.

The Presiding Chair (Commissioner Dinka): Thank you, Martha. I have no further questions.

Commissioner Farah: I have one question. In your group, is it true that there are members who were evicted from their land in the 1992 and also 1997 clashes?

Ms. Martha Njeri Shadrack: Yes, there are those who were evicted in 1992. Others were evicted in 1997. I am one of those who were evicted in 1997.

Commissioner Farah: Those who were evicted in 2007/2008 have now been added to the group. Is that true?

Ms. Martha Njeri Shadrack: Yes, they have been added to the group. However, they are not fully integrated as IDPs. They do not feel much at home with us. We are not very much together.

Commissioner Farah: What about the evictees of the 1992 clashes?

Ms. Martha Njeri Shadrack: In 1992, we did not register ourselves. We only registered ourselves as IDPs in 2008.

Commissioner Chawatama: Thank you for your testimony. You said you were a business woman before the clashes. Could you tell us what the rest of your membership are engaged in? What are you now doing to earn your daily bread? How do you get money to buy food and support your families?

Ms. Martha Njeri Shadrack: Some of the IDPs are working in flower farms while the others are selling vegetables in the market. Others are doing simple poultry within the camp.

Commissioner Chawatama: So, there is a camp where you are all staying?

Ms. Martha Shadrack Njeri: It is a centre and not really a camp. It is known as Karati Centre.

Commissioner Chawatama: I have no more questions.

The Acting Chair (Commissioner Namachanja): Thank you very much, our sister, Martha. In your membership, when you look at the ethnicity of the people, what is the percentage?

Ms. Martha Njeri Shadrack: I cannot exactly tell about the communities because in that group, we do not mind much about our ethnicity. Anyone can join our group; be it a Luhya, Luo or Kalenjin. As long as you were evicted, you are welcome to our group. We are not selective on a tribal basis.

The Acting Chair (Commissioner Namachanja): So, for example, how many are Luo?

Ms. Martha Njeri Shadrack: We have two Luo.

The Acting Chair (Commissioner Namachanja): Approximately, how many are Kikuyu?

Ms. Martha Njeri Shadrack: The Kikuyu are 130.

The Acting Chair (Commissioner Namachanja): Thank you very much.

The Presiding Chair (Commissioner Dinka): I have no questions for Martha. Clerk, please, step her down and bring the next one.

Ms. Bellinda Akello: Presiding Chair before we step down the witness, there are members of Karati IDP Settlement Scheme. So, maybe if you could ask them just to stand, so that we can acknowledge them.

The Presiding Chair (Commissioner Dinka): Please, stand so that we can recognize you.

(Members of Karati IDP Settlement Scheme stood up)

(Mr. Peterson Muna Kamondo took the oath)

Ms. Bellinda Akello: For the sake of the records, please state your full names.

Mr. Peterson Muna Kamondo: My name is Peterson Muna Kamondo.

Ms. Bellinda Akello: At this particular moment, where do you live?

Mr. Peterson Muna Kamondo: I live at Karati.

Ms. Bellinda Akello: For how long have you have lived at Karate?

Mr. Peterson Muna Kamondo: From 2008 until now.

Ms. BellindaAkello: Where were you living previously before you went to Karati?

(Loud consultations)

The Presiding Chair (Commissioner Dinka): There is too much consultation. Could you, please, observe silence?

Ms. Bellinda Akello: Mr. Kamondo, we are grateful for your coming here today. We have seen that you are blind. Were you born like that or is it something that you experienced when you were already born?

Mr. Peterson Muna Kamondo: It is something that happened when I was in Form Two. The doctor said we sought medical advice when it was too late. Therefore, they could not correct it. They said my eyes were very sensitive and there was nothing much they could have done to rectify the situation. So, after that, I could not see again. I was advised to go to a school for the blind. So, I went to Kinunga Training College in Nyeri.

Ms. Bellinda Akello: You say that you lost your eyesight when you were in Form Two. What year was that?

Mr. Peterson Muna Kamondo: It was in 1996 or 1997. I did not get treatment on time. In 1991, I went to Agricultural Training College.

Ms. BellindaAkello: You say that you moved from Kuresoi in 2008. What made you move from Kuresoi in 2008/2009?

Mr. Peterson Muna Kamondo: It was because of the post-election violence. We did not expect that to happen. We stayed there up to the last minute and voted. We waited for the results. However, there was a lot of tension because they were saying that they would remove the “spots”. They kept telling us to start packing and that we had to leave. We thought that if our party won, nothing would happen to us. So, we waited until the results were announced. The party we thought would win won but the same evening we started noticing houses being burnt. We heard gunshots from the lower side at a place called Chepsir. When we heard the shooting in Chepsir which was near where we used to go to the market, farms were already burning and houses were being burnt. It was in the evening, so we spent the night out in the bush. We could not go back to our houses. We had had skirmishes before and we knew that if we spent the night in the houses, we might be burnt in there. So, we took our blankets and children and spent the night somewhere near the fence until the next day. In the morning, it was a little calm. My wife said that she would go home to pick up a few things. But before she reached the house, someone came back and told us that the Kalenjin were right there at the river. She had said she was going to get a bag so that we could escape but now we just had to jump over the fence to go to our neighbor who is a soldier. So, we went there. He was a very good friend of mine. He told me not to worry. When we were there, bullets started flying above us. We thought since this man was a military man, there was no reason for us to worry. However, I thought about my wife. I said if my wife comes back she might not know where we were. So, we decided to go back to the place where she had left us. This was near our fence. When she came back, we called her. We told her where we were. So, we went to the military man’s home. That is where we spent our night. So, at night, I slept in the sitting room and my wife slept in the kitchen with other Kikuyu women who were sheltering there. That night some Kalenjin came. The situation was so bad that no Kalenjin was talking to a Kikuyu. So, in the morning, my wife asked me whether I heard what the Kalenjin said when they came that night and I told her I did not hear anything. She told me we could no longer live there and that we should run to Kuresoi Centre. We realized that they might turn against us. We could no longer trust even our host. We thought he could even turn against us. So, we were afraid. My wife took my hand and we ran away through the bushes. We met one Kalenjin who was a young man that I had known before who was an ex-chief. He agreed to hold my hand. He said that there were warriors within the bushes and that if they saw him holding my hand, they would probably kill him as well. So, we went through the bushes. As we were moving, I do not know what happened, but I hit my left eye, fell on the ground and I lost a tooth. At that time because of the fear, I did not feel any pain. We just went on moving until we reached the main road that led to Kuresoi. We walked until we reached Kuresoi Centre.

When we got there, we were quite happy. We realized that we would be safe. So, we went into one of the homes near the centre and rested. We thanked God that we had arrived safely. After that, we went to the nearby police station and asked if we could get any assistance to leave Kuresoi to go Molo. Around that time, people were coming in with arrows lodged in their bodies and some dead bodies were being brought in. One of the policemen asked me what tribe I was. I told him I was a Kikuyu. He was Kalenjin. He did not want to talk to me again. The OCS was a Luo as well. So, my child got hold of my hand and took me back to where we were sitting and we just sat there receiving no

attention or help from them. Some people started screaming and we knew that the Kalenjin were coming to attack and burn the centre. However, the policemen came out and shot in the air and that made the warriors to retreat.

After that, we stayed until the third or fourth day when a man called Waiganjo who had been killed was going to be buried in Molo. I never lost hope. I kept going to the police station hoping that one day, they would help us. There was a lady who was to be buried in Molo. So, we asked the people who were preparing to go and bury her if they could give us a ride. They told us they did not want anyone who would go there and not come back. They actually wanted people who would go, bury the victim and come back. They believed that if they took us away, it would mean leaving the area for the Kalenjin. However, the policeman who was escorting them was a Kikuyu. He pleaded with them to go with me because I could not do anything. He told them that if they were not going with me, he could not escort them. That is when they accepted me to go with them.

We met a few people along the way but there was no problem. So, we reached Molo. That was a relief for us because we were very tired and traumatized. Molo seemed calm. From Molo, we moved on to Nakuru. We went to the showground where we stayed. There were many problems in that area. From there, we left and came to Naivasha.

Ms. Bellinda Akello: What problems were there?

Mr. Peterson Muna Kamondo: At the showground, there were too many people and children. People were crowded. Therefore, it took a long time to get any service or assistance. We were also scared because the showground was near a forested area. There were letters threatening us. It was very near some bushes. So, we thought we were under threat of attack again. The showground is quite close to the Menengai Crater which is a forested area. We thought that that might be a bit of a risk. So, there was not much that we could do. Whenever they attack, they usually attack in a very big group of about 1,000 warriors. So, when we got the chance to come to Naivasha, we actually took that opportunity to come to Naivasha. This is where we have been staying. A Good Samaritan hosted us for a while. However, after some time they got tired of us. They decided that we would start paying rent. So, that is where we are up to now.

Ms. Bellinda Akello: What is the name of that Good Samaritan?

Mr. Peterson Muna Kamondo: The Good Samaritan is called *Mama* Kariuki.

Ms. Bellinda Akello: Where do you live?

Mr. Peterson Muna Kamondo: A place called Bondia. We have lived there since we left Molo. My wife is the sole breadwinner. Now she goes to college; she joined the Kenya Institute of Special Education. We have five children and have to struggle to see what our lives will be like.

Ms. Bellinda Akello: Thank you very much for that information. Before the conflicts of 2007/2008, what was your occupation at Kuresoi?

Mr. Peterson Muna Kamondo: I practised agriculture. We did farming and sold carrots. We used to sell a lot of it in the market. We did not really have problems. Our lives were quite normal because there was sufficient rain there. The problem was just the conflict but we could actually even pay school fees for our children. Here, life is a lot more difficult because it is a drier place.

Ms. Bellinda Akello: Was that place where you lived a personal or leased land?

Mr. Peterson Muna Kamondo: The land had been given to us by the Kenya Society for the Blind. They had promised to settle us after three years. However, they had not given me the title deed.

Ms. Bellinda Akello: Is there any document of agreement between you and the Kenya Society for the Blind showing that you were to take ownership of the land?

Mr. Peterson Muna Kamondo: We had an agreement with them. They called us back in January of that year and told us they were likely to sell that farm. They promised to resettle us somewhere else.

Ms. Bellinda Akello: Have you tried to make a follow-up or to know the development or the issues pertaining to the land?

Mr. Peterson Muna Kamondo: The farm is still there but there is no house at the moment. We have never gone back there.

Ms. Bellinda Akello: If you could be given back that land, will you go back to Kuresoi?

Mr. Peterson Muna Kamondo: I do not think I would want to go back there because the people that I had lived with for a long time are the ones who burnt my house. If somebody burns your house, it is not easy to go back there because you have a very negative opinion of them. Also, you believe that these people do not want you there. You cannot force yourself back there to live with them because you will just be endangering your life and that of your family. We have lived with them all these years, but they are people who are secretive and you cannot understand them.

Ms. Bellinda Akello: In your statement, you have explained that there are people who called you “spots”. Who are these people who were calling you “spots”? What was these “spots” referring to?

Mr. Peterson Muna Kamondo: This was being used by the Kalenjin and some Kisii. They mainly meant other tribes that were not like them. So, the Kalenjin did not want other people. They wanted to be the only ones staying in the area. That is why they called us “spots”.

Ms. Bellinda Akello: So, the word “spots” indicated other tribes that were not from that particular area?

Mr. Peterson Muna Kamondo: Yes.

Ms. Bellinda Akello: Would you know the name that they were using as the group of the Kalenjin or did you know why they used that name? Or is there a person who told you that that is the name being used in that particular area?

Mr. Peterson Muna Kamondo: We have been experiencing conflicts during elections since 1992. The conflicts are engineered by politicians. Eventually, when they realized that they were under threat, they decided that it would be easier to throw us out and reclaim the land or maybe buy it at a cheap price.

Ms. Bellinda Akello: What made them to use the word “spots”? Was it because of politics?

Mr. Peterson Muna Kamondo: I had not heard any politician using that term. It is only that I know that this started in 1992 because of incitement by politicians. They wanted to evict some people from their area so that those who would remain would vote for them.

Ms. Bellinda Akello: How many children do you have?

Mr. Peterson Muna Kamondo: I have five children.

Ms. Bellinda Akello: How old is the first born?

Mr. Peterson Muna Kamondo: The eldest was born in 1998. He is in Standard Eight.

Ms. Bellinda Akello: And the youngest?

Mr. Peterson Muna Kamondo: The youngest is one year and six months.

Ms. Bellinda Akello: When you were fleeing from your place, how many children did you have?

Mr. Peterson Muna Kamondo: I had four children.

Ms. Bellinda Akello: I would like you to explain to us in brief when you said that when you were running away, there was a time that you were forced to sleep outside. Were you together in the company with your wife and children?

Mr. Peterson Muna Kamondo: Yes, I had all of them. We just covered ourselves in a blanket along the fence. There is a zig zag fence that we had made. We planted it because

we had anticipated that there would be conflict at some point. So, it is kind of w-shaped. We thought we could hide there as long as we were quiet.

Ms. Bellinda Akello: We understand that you were blind and you could not see. What were your thoughts as you were forced to take care of your children and you know that the people who were evicting you were also your neighbors? What did you feel at that particular moment? What were your thoughts at that particular moment? You were sleeping outside with your children and your wife was forced to run so that she could take care of you. As a man and the head of the family, what were your thoughts?

Mr. Peterson Muna Kamondo: It was very challenging. I thought that the place was dangerous to live in. I could not see and my wife was doing everything and she would be the one to lead us to safety. That makes me never want to go back to Kuresoi. So, the only way was to go to Kuresoi Centre and find a safe exit to Molo and maybe come somewhere in this direction because the threat was still there.

Ms. Bellinda Akello: You also explained about your neighbor who was assisting you, especially the Kikuyu who were at her place.

Mr. Peterson Muna Kamondo: He offered refuge to two families.

Ms. Bellinda Akello: You stayed in her house for how long?

Mr. Peterson Muna Kamondo: We were there for one day. The following day, we thought it was too risky to stay on, especially because when they said that they did not want to see a Kalenjin talking to any Kikuyu. We did not know what would happen to us if they discovered that we were still there.

Ms. Bellinda Akello: But she wanted really to help you. You can also say that there were other Kalenjin who were good?

Mr. Peterson Muna Kamondo: There are some generous Kalenjin. Definitely, there were some. However, it was hard to tell which one was good at that particular moment. Since we were living in fear at that time, we did not know who was a good or bad Kalenjin. They were also afraid, but they would possibly turn against us because they were under pressure not to entertain the Kikuyu. So it was safer to run away.

Ms. Bellinda Akello: In your statement, you also mentioned about an OCS. The most important thing you said was that the OCS was a Luo. Did you get any help from the OCS? Did you go to him to get any assistance? Did he help you?

Mr. Peterson Muna Kamondo: He was not of any assistance to us. He was only looking at us but not offering us much help. Some of the houses were being burnt right as they were watching. They did not do much. They watched helplessly.

Ms. Bellinda Akello: So, in your opinion, you are saying that he did not help you because of tribal reasons or because they did not have enough reinforcement?

Mr. Peterson Muna Kamondo: I would say that even if they would have wanted to help us like the one who wanted to help us, they were not in a position to do so. For example, there was a Land Rover that was carrying people who had been burnt. We tried to get into it but could not fit inside there. At that particular time, we did not really care if there was a dead person inside or not. We only got assistance when the hearse that was carrying the remains of a lady came.

Ms. Bellinda Akello: Were you beaten at any time when you were running away? Is there any other time you were beaten?

Mr. Peterson Muna Kamondo: It is just the twig that hit my eye.

Ms. Bellinda Akello: You ran for refuge with your wife and children. Briefly, what are the recommendations that you can give before this Commission to help you as a person and also to help the many others who ran away from Kuresoi?

Mr. Peterson Muna Kamondo: I would like to suggest that, especially those of us who are disabled have a lot of challenges. Whenever there is such a conflict, a disabled person or a blind person like me would not even know where to hide. Sometimes you have lame people who are unable to run. A deaf person may not even know what is going on around him. Generally, the disabled persons are more vulnerable. We would like to urge the Government to be closer to the disabled people because they do not get much assistance. We would be very vulnerable in a place like that because we cannot hide. There was one blind person who got burnt in one of those farms because he could not run away.

There was another one from Mali Ndogo who died recently of stroke as a result of depression. His name was Muiruri. You realize that even if we go to hospital, especially those where we are expected to cost-share, we cannot pay anything. There are very many other problems because the children of the disabled may be suffering more than other children in school. So, the Government should take special care of the disabled because they have more problems than other people in taking care of their families.

We would like to urge the Government to resettle us and also to pay us some compensation. This is because if it were not for the post-election violence, we would not be having some of the problems that we are experiencing currently. We voted like any other responsible citizens, but we did not know that this would lead us into such tribulations. So, the Government should take responsibility to compensate us without discrimination. We also would like to be recognized as Kenyans regardless of our tribe. I pray to God to give us the wisdom to know that He created all of us the same and we are all the same before Him. If we recognize that, we will live together in peace. We must know that regardless of who we have as a leader, he can lead us in peace. We do not have to think that this leader or that leader is good because he hails from my tribe. All we need is the wisdom of somebody who can rule over all Kenyans equally. We can only

live in a cohesive way if people will stop thinking that it is a must for a person from their community to rule.

Ms. Bellinda Akello: Is there a group of the disabled people who were evicted during the post-election violence that has come together to form their own group? Is there any way that you are joined together so that one of you can say the problems that they underwent, the suffering, and you can get assistance as a group of the disabled who were evicted?

Mr. Peterson Muna Kamondy: It is only now that we have formed a group but it is for only the disabled in Naivasha and not necessarily IDPs. We live in a place called Ndirit Centre. That is where we meet twice a month and it is a very new group. It is only about two months old and it has just been registered.

Ms. Bellinda Akello: Thank you very much. As you have spoken to us, I now hand you over to the commissioners so that they can ask you a few questions for further clarification. Thank you very much, Mr. Kamondy.

The Presiding Chair (Commissioner Dinka): Thank you very much, Leader of Evidence, and Peterson, for your testimony. I will now ask my colleagues to ask you questions.

Commissioner Farah: Peterson, we empathize with your situation since you are disabled. I do not have any questions for you since you were very clear.

Commissioner Chawatama: Thank you very much for your testimony. As Commissioner Farah has said, it was very clear and detailed. It was almost as if I was there with your family when you were going through this experience. There was something that you said that I did not get quite clearly. Was this hedge that you built around your house shaped like a “W”? You said that this was deliberate because you anticipated problems in future and it would be a place to hide. Could you tell me what this was? Could you also tell me why you lived in anticipation of trouble?

Mr. Peterson Muna Kamondy: The reason for me to live there as I said, the farm was allocated to us by the Kenya Society for the Blind. We had nowhere else to go. After I lost my sight, I was told that as soon as I finish my training and I performed well, they would give me a place to settle. Since I finished and I performed well, that was where I was taken. I was told that I would stay there for three years after which I would be granted a title deed. So, when I was there, I kept saying that once I get the title deed, I would sell off that land and buy land in a much safer place. So, I was actually waiting to get the title deed and then I would go back for further studies and at least proceed up to Form Four and then go to college. This farm kept me there because I had been promised a title deed after three years. But after the three years elapsed, I was not given one. I was told that I could go ahead and marry. I told them that I had married. I was told to go ahead and wed. So, I went ahead and wed and then I got a child while waiting for the title deed. But as we speak now, I have never received it. That was why I had to stay there on

the farm. I had to create a kind of fence to restrain the cattle. There were a few trees that I had planted in the shape of a “W”.

Commissioner Chawatama: Did you ever express your fears to the Kenya Society for the Blind that you did not feel safe living in the area and on the farm that they had allocated to you?

Mr. Peterson Muna Kamondu: Yes. I kept telling them but the branch that I was under was the Kericho one. They were the ones who kept on telling us to just stay there. There were Kikuyu living there and I just had to stay there and wait for my title deed. I waited for it until the clashes. The place had clashes before and so we would run away and go to the centre or to churches but this time, it was worse. We had actually been told to go to the church but I told them that the churches were more dangerous, because they would think that the people who were running to the churches were of one tribe. That was where they would attack us even more. So, I actually asked them if they could help us out, but they simply advised us to run to a nearby church. I thought it was too dangerous to go to a church, so we just went to the centre.

Commissioner Chawatama: On the list that mentions people who were identified as a result of the statement that you gave was forcible eviction, serious injury, denial of justice and loss of property. The denial of justice that was identified, how did it come about? Was it the manner in which the police handled you or was it something else that could point to the fact that you were denied justice?

Mr. Peterson Muna Kamondu: I may say that the police officers used to find that--- Because it was politicized, the Officer Commanding Station (OCS) was a Luo. This meant that he must have been sympathetic to the Orange Democratic Movement (ODM), and there was that divide. So, he may not have been willing to help us. So, if you were sympathetic to a certain party, or you were of a certain tribe, you would be identified with a certain party. So, we did not quite get any help from them. Houses were being burnt and the police officers watched while pretending to be shooting in the air and not helping anybody. People were killed without the police intervening. They were just shooting in the air. To me, that looked like the officers were not doing their job as required.

Commissioner Chawatama: Currently, there are some major reforms that are taking place in Kenya which include police reforms. Do you have the confidence that these reforms will change the behavior and attitude of the police, so that if a situation arose again, the police would perform their duties differently?

Mr. Peterson Muna Kamondu: We still have some faith because they say that they are reforming. But it is more important to wait and see how they will behave as they go about their duties, especially if such a thing does occur again though we pray that it does not. We will watch and see whether they will behave as they have done in the past or whether they will behave in a different way. Also, I would like to see some accountability, so that any ordinary citizen can talk and be listened to. There was no democracy. You talked to the media and people would listen to you. So, we hope that they will see the change and

with a more liberal media, anything that somebody says will be listened to. So, I believe that it is important that we wait and see from their actions whether they will have been reformed.

Commissioner Chawatama: If the Luo officer that you have referred to were to walk into this hall today, extend his hand of friendship and ask for your forgiveness and that you be reconciled, is that something that you would willingly and readily accept to do?

Mr. Peterson Muna Kamond: Yes; indeed, even now I have already forgiven him. Let us forget about the past and think about our lives and the reforms we are working on, and hope that such a thing never occurs again.

Commissioner Chawatama: Thank you very much for your testimony. One of the things that I have noted is the helplessness in which you found yourself. We have heard this from many men, especially those who were in the IDP camps. That is the frustration and sometimes the anger in not providing for their families and being husbands and fathers they were supposed to be. We thank God that your life was spared and that your wife and children are also alive today, and that you are looking forward to a brighter future. As a nation, Kenyans will be Kenyans first and the tribal aspect will just be a by-the-way.

I am encouraged by your testimony. I am strengthened by it. When I am struggling with my faith, I will remember you and ask the Lord to just let me have a little bit of faith that Peterson had. Indeed, you are like Peter, the Rock. I thank you.

Mr. Peterson Muna Kamond: Thank you very much.

The Acting Chair (Commissioner Namachanja): Brother Peterson, in your statement, you say that when you reported the matter to the Kuresoi Police Station, you were asked what tribe you were. When you said you were a Kikuyu, you were told to go back where you had come from. What did you understand by this statement?

Mr. Peterson Muna Kamond: What I understood was that they were suggesting that we go back to Central Province, where the Kikuyu originally came from. It made me withdraw slightly to think about it. I thought that it was dangerous because even the police station was surrounded by the Mau Forest. I thought that if the warriors came in, it would not be very difficult for them to overrun the police station. So, I simply went back and God brought in the vehicle that was used as a hearse to bury the dead in Molo.

The Acting Chair (Commissioner Namachanja): Were these words uttered by the same OCS, or was this another police officer?

Mr. Peterson Muna Kamond: That was a different officer. The OCS only looked at us without saying anything. Out of the three policemen, one was a Kalenjin, another was a Luhya and the other a Kikuyu. You realized that the Kalenjin, Luo and Luhya were one

thing. When the Kalenjin asked me what tribe I was and I told him I was a Kikuyu, nobody talked to me after that. The Kikuyu man was just silent.

The Acting Chair (Commissioner Namachanja): Thank you, Peterson. I would also like to appreciate you for coming here to share your testimony. It is not just your testimony. You have represented well people living with disability. Thank you so much. God bless you.

Mr. Peterson Muna Kamondu: Thank you so much.

Commissioner Ojienda: Thank you, Peterson, for your testimony. I have just one note from your testimony. You have constantly referred police officers as coming from among the Kalenjin, Kikuyu and Luo. I want to observe that the focus was on individuals, hence a feeling of belonging to communities. It was not good for the equation of this country. Each individual has a name and is a Kenyan. I think it is important to encourage the idea that individuals be referred to by their names since they are individuals. There is no individual known as a Kalenjin, Luo or Kikuyu, because they have their names. I think it is instructive that, as people belong to different communities, we have Kenyan bonds.

Now, how would you have known that the police officer at Kuresoi was a Kikuyu or Kalenjin? Or how do you tell that someone is a Kikuyu or Luo?

Mr. Peterson Muna Kamondu: When people stay together for a while, it is easy to know what tribe somebody belongs to. When you stay there for long with people of a certain community, you speak their language fluently, just like them, but the people there, though you have lived with them, know that you are not one of them. They just know you as a foreigner. For instance, if you move from here to another place, the community there will know that you came from a certain tribe and you are a minority there. You can speak the language of that tribe. But even if you grew up with them and spoke their language, they will always know that you belong to a different community. Since you know that it is dangerous and you did not leave them, it is very hard to stay with them or co-exist with them. You have to run away when you can.

I also have a Kisii friend and when this happened, he was in Sotik. He knew the language there very fluently. As they were trying to attack him, he spoke their language and they spared his life. He said that he did not have a national identity card since they were asking for identity cards. If they did not know him, they could have killed him. They knew him. They knew that he was a non-Kalenjin but since he spoke their language very well, he was spared. So, if you are in some place where you do not normally live, it is easier to get away by pretending to be one of them.

Commissioner Ojienda: Now that mother tongue is the language that someone speaks and it has a lot to do with violence. It would have saved you, but it would also have given you trouble. Is that so?

Mr. Peterson Muna Kamondu: That is true. Language depends on where you are. If you were in the interior, it would have been easier for you to get to know the language more fluently, but when you live closer to a trading centre, it is very hard to know another language.

Commissioner Ojienda: In the recommendations we made with respect to the mode of communication--- It appears from what you have said that ethnic languages were a medium of communication that was used to exterminate others or rather to cause harm to people of other communities. Was that so?

Mr. Peterson Muna Kamondu: Yes; if you were in the interior where mainly one language was spoken, you would be asked to say something in another language, or they would speak to you in their language. If you could not speak it fluently, they would know that you were not one of them.

Commissioner Shava: Peterson, thank you very much for your testimony. I would like to associate myself with the comments made by my colleague, Commissioner Chawatama, and appreciate your courage in coming forward and the times in which you have been living and also the fact that you told us the stories so clearly. After a while, I stopped writing and was following your story as if I had been there. So, thank you for that able depiction of what you went through. I think that today you have demonstrated very well the slogan that disability is not inability. You have also taught me personally something new. I did not know that Kinunga Training College for the Blind is a place where people whose sight is impaired can actually learn to farm. That is a great thing. I also note that you can support your family very well from the proceeds of farming. So, I think it is really a double tragedy when you are such a demonstration of independence, and something like this happens to you and your family without any justification. However, as my colleague said, we are happy that you survived. We would encourage you to continue in the same spirit. Thank you very much.

The Presiding Chair (Commissioner Dinka): Thank you very much, Peterson, for your testimony. I have one or two questions for you just to clarify some issues. Before I ask them, I have some good news for you. Commissioner Dr. Tororei, who is sitting with us here, and is a Commissioner of the Kenya National Commission on Human Rights, is also a member of the Kenya Society for the Blind. Furthermore, in 1992, he was in charge of resettlement. After he has listened to your testimony, he has now undertaken to bring your problems and issues to the attention of the Kenya Society for the Blind and personally follow up on the issue. That is of great help from Commissioner Dr. Tororei. I take this opportunity to on your behalf and that of everyone here, thank Commissioner Dr. Tororei.

My question is: Do you remember the name of the person who held you by your hand and took you to Kuresoi Centre?

Mr. Peterson Muna Kamondu: She was called Margaret Wanjiru. It was my wife. There was also the chief's son. He did not help me. He feared since he said that there

were Kalenjin warriors lurking in the forest. He advised us to move on but he is somebody whom I know very well. He feared that if he was seen helping the Kikuyu, he would be in trouble. I was left with my wife to find our way to Kuresoi Centre.

The Presiding Chair (Commissioner Dinka): So, whether it was your wife or anybody else, that kind of courage and generosity must be saluted by all of us. I really hope there will be millions of people like that. Having said that, I want to ask you one or two questions. Before the Kenya Society for the Blind sent you to this land, where were you living and what were you doing?

Mr. Peterson Muna Kamondu: We lived in Nakuru Town. I lived with my mother and my siblings. That was when I went blind. So, we went to the Social Services Department and they managed to send me to Kinunga Training College for the Blind, because I could not see anymore. Before that, I had just been in school and living with my mother.

The Presiding Chair (Commissioner Dinka): Was it after that you went and settled on this land in Kuresoi? Which year was it?

Mr. Peterson Muna Kamondu: I finished the training in 1991 November and on 6th December 1991, I was taken to that farm. I had my photograph taken there. I was accompanied by my brother. At that time, the farm was full of blue gum trees. They planned to uproot them so that I could get a chance to plough it. So, I was told to wait for a while. By February 1992, they were still uprooting the blue gum trees and there was also tension. We heard about tension in places like Kitale in 1992. The branch told us to be a little bit patient and not to rush to settle on that farm. So, we waited during February and March. During the month of May, around 16th, there was a lot of fighting in Kuresoi. Kadima Farm was attacked and burnt. The raiders were using airplanes to distribute the arrows, so the Kikuyu ran away. They thought that it was not only the Kalenjin who were attacking them. There was a lot more to that. There was a lot of tension and whenever we got to elections, people lost their lives.

The Presiding Chair (Commissioner Dinka): When did you exactly settle on that land?

Mr. Peterson Muna Kamondu: I settled on that land in 1992 June after the 1992 clashes had gone down. I have been living there until today.

The Presiding Chair (Commissioner Dinka): In your testimony somewhere in the middle, you said something to this effect: “These are people who are secretive”. Can you expound a little bit on that as to the identity of the people and why you deem them secretive?

Mr. Peterson Muna Kamondu: The way I have lived with these people, is that you find that you are together and go to the same church, have the same co-operative and eat together, but they cannot tell you what plans they have. You might be open with them and tell them all your plans but they will never tell you their plans. You realize that you spend the whole day eating with somebody but in the evening, he is part of the group that

is attacking you. So you live in fear. When they come to you, you think that they are investigating. You do not even know the next step that they are going to take. You could share a meal with them but at night, they attack you. The clashes have always been in Kuresoi, so people live in fear. They are your friends but they will never tell you what plans they have. You simply live by choice.

The Presiding Chair (Commissioner Dinka): Thank you very much. This is my last question to you. I would like to wish you a very happy and fortunate future in your endeavors and tell you my own appreciation of the fact that a person who is disabled like yourself can overcome it and fully support himself and his family as much as anyone can. That is a great thing to see. I think you are a living testimony to that. I would like to thank you for coming and giving us this testimony. Leader of Evidence will now step you down.

Ms. Bellinda Akello: I am much obliged.

The Presiding Chair (Commissioner Dinka): Okay, you have been recognized. You may now sit down. Thank you very much.

Ms. Bellinda Akello: The next witness seems to have a big testimony and has agreed that he would present it after the break. We shall then embark on Witness No.1 on our list.

(Mr. Peter Otieno Ombude Ombude took the oath)

Ms. Bellinda Akello: Good afternoon. For the record, kindly, state your three names.

Mr. Peter Otieno Ombude: My name is Peter Otieno Ombude Ombude

Ms. Bellinda Akello: Welcome, Mr. Peter Otieno Ombude Ombude. Where do you live?

Mr. Peter Otieno Ombude: I live in Naivasha, Olkaria Location.

Ms. Bellinda Akello: How long have you lived in Olkaria Location?

Mr. Peter Otieno Ombude: I have lived in Olkaria Location for two years. However, I have lived in Naivasha for 19 years.

Ms. Bellinda Akello: Where were you living before you moved to Olkaria.

Mr. Peter Otieno Ombude: I was living at Kabati Estate.

Ms. Bellinda Akello: According to your testimony, I can see that you moved from Kabati Estate because of the 2007/2008 post-election violence. Is that correct?

Mr. Peter Otieno Ombude: Yes.

Ms. Bellinda Akello: Mr. Ombude, which other responsibilities or what other positions do you hold in society?

Mr. Peter Otieno Ombude: I am the branch secretary of the Kenya Plantation and Agricultural Workers Union. This is a union representing workers in the flower industry. It has a total membership of about 50,000 workers.

Ms. Bellinda Akello: Kindly, confirm it has a membership of 50,000 workers.

Mr. Peter Otieno Ombude: Yes.

Ms. Bellinda Akello: Maybe in a few lines, what kind of workers do you have in your union?

Mr. Peter Otieno Ombude: In plantation, we have workers who are harvesters, harvesting flowers. We have packers who pack flowers for export. We have irrigators who do irrigation for the flowers. We have green house construction workers. We have drivers. We have clerks, plumbers, sweepers and messengers, who are all unionisable, and they are allowed to join the union.

Ms. Bellinda Akello: How many organizations are we looking at? These are people who work in how many different organizations?

Mr. Peter Otieno Ombude: I can say in Naivasha we have 60 farms with about 45,000 to 50,000 workers. Some farms have about 68,000 workers.

Ms. Bellinda Akello: Thank you very much. Who would you say is the seniormost person who is a member of the union? What rank do they hold in the individual flower farms?

Mr. Peter Otieno Ombude: Within the flower farms, we have the shop stewards who are under me. In every farm, we have a shop steward. We also have a chief shop steward. So, the chief shop steward manages the shop stewards. Shop stewards are elected in every section. If they are sprayers, they would elect their shop steward representatives because every section understands its own problems. So, they have to have a representative.

Mr. Bellinda Akello: So, in your membership, which is roughly 50,000, the most senior worker amongst these 60,000 that you represent is the steward.

Mr. Peter Otieno Ombude: No. Let me explain a bit for the Commission to understand. The Kenya Plantation and Agricultural Workers Union has 15 branches headed by the General Secretary. Within the 15 branches, we have branch secretaries. Naivasha is one of them. We have a branch in Thika, Nandi Hills, Sotik, Kericho, Nyeri, Kerugoya Kutus, Machakos, Mombasa and Voi, among others. So, all those branches are headed by branch secretary like me, who is answerable to the General Secretary of the union, who is the senior most leader of the union.

Ms. Bellinda Akello: Thank you very much for that clear and articulate representation, Mr. Ombude. So, we can comfortably say that the concerns that you have represent the Naivasha region.

Mr. Peter Otieno Ombude: Yes.

Ms. Bellinda Akello: Kindly take the Commission through a few of the concerns that your membership has under the Naivasha region. You could also highlight issues that you would like to bring to light for the Commission and the Government as the branch Secretary.

Mr. Peter Otieno Ombude: First of all, I can say that out of the population of Naivasha which is about 300,000, almost all are workers, because they have dependants and children. Another concern is that in 2008, during the post-election violence, the populations that suffered most were these workers. Most workers are immigrants, people who come from different regions to look for employment in the cut-flower industry. Most of these workers are still part of the integrated IDPs. However, they have not been paid any single cent by the Government. They have lost their properties. Some of them also lost their children and husbands. So, they suffered like any other internally displaced people from other areas. A number of them went home. Some of them never came back. A number of them came back. They were working and are still living here.

I just quote the first incident of Fredrick Odindo, who was killed on the night of 25th. He was a worker in our flower farm. Mary Awino also lost five children who were burnt. She was also a worker in our flower farm. So, because most of those people were displaced and, therefore, they cannot come here and raise their concerns, they asked me to come before this Commission and do so on their behalf.

These workers face issues of health and safety. As I said, there are 60 farms here. Most of them are profit-oriented; they are not concerned with the welfares of workers. A few of them are doing well. However, a number of them have problems. Workers normally complain of health and safety diseases because these flowers are sprayed every day. I would like to tell the Commission that these chemicals are harmful to our health. If you want to kill *potraitis* in the flower; you have to spray a stronger chemical. Due to market demand, when an order is floated from Europe that they want eight million stems tomorrow at 8.00, workers are forced to work over time because if the order goes then the market will not be found again. So, these are the challenges that workers face. You find that when they are forced to harvest, they go back to a green house and harvest. As I said, that chemical is systematic and people get sick as they inhale it. I would like tell this Commission when people are employed they are very smart and energetic. They are very healthy. However, when you look at them leaving employment, they are sickly. They have nothing to account for all the years they have worked. When you are sickly, because this is an intensive work, you cannot be allowed to continue. You have to go back to your home area to care of yourself. So, these things, to us as trade unions, are challenges.

Another thing they normally talk about is low wages. With regard to low wages, the Government has done nothing to do justice to workers. We, as trade unionists, negotiate for better terms and salaries. However, the Government up to date has set a minimum wage in the agricultural sector at Ksh3, 400 without house allowance. So, if a trade unionist goes to a farmer who is paying Ksh4, 000 and complains, he is told that is the minimum wage recommended by the Government. They tell us to go back to the Government and negotiate. This thing is really a problem. Due to that, we cannot talk of sustainable development. These workers have nothing to celebrate. These are some of the injustices to workers.

Another area is casual labor. People work for more than five years as casual laborers. Our law says a person can be employed on contract basis. It also says that you can renew your contract after three months. It is sad that you find somebody who has worked for ten years as a casual-- The law is very clear in Kenya; that if you are not a permanent worker, when you leave employment, there are no final dues. You do not have leave days. You do not get any benefits when leaving employment because there is no service accrued to you. Let me put it clearly that, for example, a grader who grades flowers is required to grade 3,600 stems. These are later sold in Europe in Tescos, White Ross, Marks and Spencer. Every stem fetches about Ksh100 when the market is not good. However, the grader is only paid Ksh150 per day. So, these are the areas that workers want the Commission to raise with the Government.

Another thing is that accessing Lake Naivasha by the workers is becoming difficult. There are no corridors. The growers have blocked access routes to the lake. Some of workers are sometimes arrested for trespassing. Workers buy a 20 litre jerry can of water at Ksh10. Yet this is our lake. There is no water in the estates. These are some of the concerns raised by the workers. There are many other issues because this is a society with many problems. They contribute a lot to the economy of this town. They are the people renting houses here in Naivasha. These people are bigger constituents of Naivasha. However, they are ignored at all levels of decision making.

Thank you very much.

Ms. Bellinda Akello: We thank you, Mr. Ombude, for your clear presentation. I believe this was because you decided to see the bigger picture; bigger than yourself, because we see that you also had your personal statement. But you have opted to come and represent the people who have elected you as the branch secretary. I must say we need more people like you. According to the testimony you have given us, one worker generates Ksh440, 000 with a pay of Ksh150 every single day. Maybe, one question, which I hope is not superfluous. According to what you have told us, most of you are casual laborers. So, I assume that you work on a three-month contract. Is it so?

Mr. Peter Otieno Ombude: Me or the workers?

Ms. Bellinda Akello: You said that one of the concerns you have is that people have worked as casual laborers for more than 10 years. Yes, what I am saying is this:

Previously, people were being confirmed. But starting 2005, now most of them are working on a contract. You are given a three-month contract. After three months, you renew it. You go for three or four days and come back. You continue with the same work. That is what I mean. Do these three-month contracts provide any medical cover?

Mr. Peter Otieno Ombude: Yes. Section 34 of the Employment Act says that the employer shall provide medical attention. So, you can have medical cover during that time you work for a farm. But if a female employee becomes pregnant during that time, her contract is never renewed. So, these are some of concerns raised by workers.

Ms. Bellinda Akello: Mr. Ombude, maybe, those are two issues which I am also coming to. So, you do get medical cover?

Mr. Peter Otieno Ombude: Yes, workers get medical cover.

Ms. Bellinda Akello: But do you get leave?

Mr. Peter Otieno Ombude: I said workers on a contract do not get leave.

Ms. Bellinda Akello: Please talk to us about sexual harassment. A lot has been brought up in the media. A lot of blame is put on the flower farm management. Is there anything that you would like to say about sexual harassment as an official of the Kenya Plantation Workers Union?

Mr. Peter Otieno Ombude: The Kenya Plantation and Agricultural Workers Union works in a tripartite system where you would have the union on behalf of the workers, the Government through the Ministry of Labor and FKE on behalf of employers. If you look at the issues of sexual harassment, most of them are not reported as a dispute to the labor office because to some extent, they are considered as criminal offences. So, most of them are not reported to the union but to the police for investigation.

Another challenge is that most of these farms do not have a gender desk. Most of the managers are men. Female employees sometimes fear complaining to men in top management about sexual harassment. However, we also hear of sexual harassment cases but they are not reported to us directly. We also advise employers to make sure that they put mechanisms in place to address this matter.

Ms. Bellinda Akello: My last question, maybe, would be on pollution and exposure to chemicals during your work. Are all workers provided with protective gear when working? Are all workers who are exposed into the group provided with protective gear or safety precautions adhered to?

Mr. Peter Otieno Ombude: Some of the farms are doing well on protective gear. However, a number of them are not providing protective gears.

Ms. Bellinda Akello: Do you have any reported death based on exposure to harmful chemicals in the flower farms?

Mr. Peter Otieno Ombude: We have reports pertaining to those problems. We also do have people who have retired on medical grounds. This is due to the environment they have been working in. As I said before, this is an intensive work. If you are sick for a week or admitted for two or three times in a hospital, then your services are terminated. So, we do have such reports.

Ms. Bellinda Akello: Do you have any reported death?

Mr. Peter Otieno Ombude: We have not had any reported death. I worked in flower farms for more than 17 years before I was elected as a branch representative. I worked in formulation. That is treating the soil with methyl bromide and basimid. I have worked in spray and a number of areas. However, I can tell this Commission that most of the people we worked with in those different areas, when they left, became sick and others died. I cannot confirm it is because of exposure to chemicals but immediately they left here, they became sick and others died. That is what normally happens to workers who have left this place. We are not saying we are drinking poison but you are inhaling it through respiratory organs.

Ms. Bellinda Akello: So when you get sick the organization, terminates your contracts?

Mr. Peter Otieno Ombude: Yes.

Ms. Bellinda Akello: So, this is just a camouflage and a good way of hiding the fact that when you are about to die, they release you so that you do not die there.

Mr. Peter Otieno Ombude: Yes.

Ms. Bellinda Akello: Thank you very much, Mr. Ombude. Presiding Chair, that is all from the Leader of evidence.

The Presiding Chair (Commissioner Dinka): Thank you, Leader of Evidence. Thank you, Mr. Ombude. I would like my colleagues now to ask questions.

Commissioner Farah: Mr. Ombude, I know that the overall pay of agricultural workers was given by the Government as Ksh3, 400 together with the house allowance. However, like other important cash crop workers, like those working in coffee and tea, have you ever tried to negotiate with the Government, having computed the profit margin of those companies? As you said, one stem of a good grade rose flower sells in the European market at Ksh100 or a dollar. You said one person picks 3,600 stems. That comes to Ksh360, 000 in the European market. One person brings such an income to a company but he is paid Ksh150. After that profit, minus all the expenses, which the company would tell you as a trade unionist, why did you not compute the input of the worker and

the profit margin? Having considered all the expenses, why did you not negotiate with the Government to lay a minimum wage for that particular sector? Have you tried that?

Mr. Peter Otieno Ombude: Yes, last year, we agitated for a 60 per cent general wage on the notion that this sector got Ksh73 billion. It was on record, COTU was pushing that. We have met with the Government over the same, but nothing has happened to better terms and condition of workers in this sector. However, the MP for this area, Hon. John Mututho has proposed an amendment to the law in Parliament regarding the wages in the third class sector. In that amendment, he is proposing a minimum wage of Ksh10, 500. This is taken from the reports and research we have done. So, we are waiting for Parliament to resume from recess then this matter can be discussed. If possible, we want this sector to have its separate minimum wage. We cannot compare it with sisal. So, those are the efforts we are putting in place to see how far we can go.

Commissioner Farah: Good. Obviously, you have got to present to the Commission all those concerns and recommendations. We want to make our recommendations on minimum wages in order to strengthen the parliamentary efforts.

Coming to health and safety, first of all, are you flower sprayers, those who are really exposed to all the toxic, provided with the necessary safety equipment?

Mr. Peter Otieno Ombude: It is the issue of appropriateness here. When you look at the label of those chemicals, if you want to spray Furadan, it is recommended what to wear. It is not a matter of giving an employee a gumboot and an overall and a mask. For every chemical to be sprayed, there is a dress code for it. So, these are areas we feel should be looked into.

Commissioner Farah: What is the minimum safety way of dressing requirement in this particular field?

Mr. Peter Otieno Ombude: As I said, it depends on which chemical a person wants to spray. We cannot come up with a minimum requirement. It is recommended in that label. If you are spraying this chemical, you should dress in this way or the other. But most employers after issuing gumboots and overalls say they are protective clothing. That is where the problem is.

Commissioner Farah: Therefore, for each category of chemicals, you will tell us the minimum requirement way of dressing?

Mr. Peter Otieno Ombude: Yes.

Commissioner Farah: Finally, it is with regard to casual workers. What are the normal practices? You have told us most workers in these farms are on contract which they renew after three months. You also told us if a female worker becomes pregnant during those three months, her contract will not be renewed. Is that what you are saying?

Mr. Peter Otieno Ombude: That is what I am saying.

Commissioner Farah: Therefore, these companies are really gender insensitive.

Mr. Peter Otieno Ombude: Yes, my lord.

Commissioner Farah: Which is one of the worst crimes in human rights?

Mr. Peter Otieno Ombude: Yes, my lord.

Commissioner Farah: Why do you think they do so? It is easy to renew the contract for three months and then give her a maternity leave and then allow her to come back. Is that not so?

Mr. Peter Otieno Ombude: They are only interested in making profit.

Commissioner Farah: Why did the Government change its policies in 2005, when it introduced the three-month contract period? As far as I am concerned, even if it is a three-month contract, you are supposed to be paid gratuity at the end of it; isn't it? That is the code of contract.

Mr. Peter Otieno Ombude: The Employment Act, Section 40, talks about severance pay. The Government does not talk of gratuity. Gratuity is in the Collective Bargaining Agreement (CBA) between the union and the employer. The Government only talks of severance pay in Section 40 of the Employment Act. When the company is releasing its workers, it pays severance pay at 15 days per every computed year. So, the service they are talking about is if you are deducted NSSF, you will be paid when you reach 55 years. There is no severance gratuity. These are the issues covered under the CBA. But in our CBA between the agricultural employers association and Kenya Planters Association, we have it.

Commissioner Farah: My final question is on sexual harassment which I think was asked by other Commissioners. Do you have a record of a female who has been sexually harassed and when she refused, her services were terminated?

Mr. Peter Otieno Ombude: We do not have the data. As I said, issues of sexual harassment do not fall under our mandate. They are treated as criminal offences and are reported to police.

Commissioner Farah: But as a trade unionist, you can collect the data from the police in the interest of your workers. If you get that data, bring it to the Commission.

Thank you very much for being very eloquent. We have understood your cases. These are very serious issues. We will make the appropriate recommendations.

Commissioner Chawatama: Maybe through the Chair, I would also like to acknowledge the fact that we have had an opportunity to look at your statement. We have noted the issues that you have raised on your personal displacement and the displacement of others.

Through the Chair, I would request that you read out the recommendations contained on page 7 so that it forms part of the record.

Mr. Peter Otieno Ombude: These are witness recommendations: Fellow citizens should treat each other fairly and with due regard, due respect and should avoid ethnic-based violence. Land causes ethnic clashes. The Government must come up with a system that will guarantee every citizen his fairly allocated land. Mass civic education should be carried out against ethnic negativity among the communities in Kenya.

Commissioner Chawatama: Thank you very much. I thought that it was important for you to read out the recommendations and also for you to rest assured that your statement also forms part of the work before this Commission. As we have travelled in some parts of your very beautiful country, there are certain words that I have heard that have caused some concern. In agreeing with Commissioner Ojienda on the issue of referring to somebody as Kalenjin or a Kikuyu came and attacked; then a Luo did whatever, sometimes one may not know their name and I am still wondering the best way that one can present a testimony that involves individuals that can only be identified by the community they belong to so that this platform is used to bring harmony. Of the two words that I have not understood, one is border. When a person testifying says: "And then this person crossed their border." Where I come from, a border is between nations. For example, there is a border between Zambia and Zimbabwe. So, I have not understood the internal borders that exist in Kenya. Another word that I have heard today from you is "immigrant". What is your understanding of "immigrant workers"? Where do those people come from?

Mr. Peter Otieno Ombude: What I mean is that Naivasha is part of Kenya. I am saying that because when people come from Nyanza or Coast for purposes of working, then we sometimes meet indigenous people there. This is a normal language but I have understood what you are saying. We are all Kenyans but most of the people come from very far. People used to know themselves as indigenous and foreigners and so it is used in most languages. If somebody comes from Kisumu to work, then in most cases, it is work that brings him here. After work, he goes back to Kisumu. That is what I was saying. We are all Kenyans. They work in Kenya but some of them come from far. They are living in this area. They just live here because they work here.

Commissioner Chawatama: Thank you.

Commissioner Shava: Thank you very much. I would like to say as my colleagues have said that this Commission commends you for putting the concerns of your constituents above your own and choosing to present them here. You have done so very ably. I just have two questions. In the document that you have given us, you have talked about sexual harassment and the Leader of Evidence has also led you through that out of your

testimony. But I am not very clear in my mind as to whether we are talking about sexual harassment or sexual assault of a different nature. Are the kinds of cases that you are hearing about got to do with somebody with a lot of power? For example, a shop steward making unwelcome advances towards somebody with less power like somebody who picks the flowers or are we talking about the people saying--- That is because I also sit on the Attorney-General's Taskforce for Implementation of the Sexual Offences Act and I know about the incidences of rape that, unfortunately, tend to happen a lot around Naivasha. Is that the kind of thing you are talking about in the flower farms or is it the first example that I gave?

Mr. Peter Otieno Ombude: What I am talking about is where a manager molests a lady with a view to having sexual favors. It is not sexual assault as it is not rape. That is because what we normally get is that a lady will tell you that she is allocated a bigger task by the boss or the supervisor because they wanted her but she refused. So, that is what happens; it is not rape or assault.

Commissioner Shava: Thank you. That is clear. Finally, on your statement, you talk about the lack of freedom of association and I think related to that is inability to enter into a satisfactory collective bargaining agreement. Could you talk a bit about that in terms of how the management of the flower farms is relating with the workers when they try to exercise their rights?

Mr. Peter Otieno Ombude: That is another area of trouble. We have 26 farms with a collective bargaining agreement. We have two farms with individual collective bargaining agreements. We have about 15 farms with no freedom of association; they do not allow their workers to join the union. The union requests for a meeting and it is not allowed. Therefore, those workers have no voice because they are being dictated to by the management.

Commissioner Shava: Thank you very much, that is very clear and I have no further questions.

The Presiding Chair (Commissioner Dinka): Thank you very much, Mr. Otieno, for your testimony. I would like to join my colleagues in thanking you for putting the interest of your co-workers ahead of your own problems because you have come here to participate and tell us your story of what happened to you in person during the post-election violence and, second, to talk on behalf of the workers whom you represent. But you concentrated on the last one and said very little about yourself. So, my question will cover both your case and the other one. There is a story in your recorded statement that you represent the workers' rights and also the post-election violence victims like the case of Mary Atieno. According to your statement, she abandoned her five children during the PEV. She was chased away by her husband for losing the children yet it was not her fault. Then she went home to bury the children. When she came back, the farm she was working for sacked her for being absent from work. So, I think she represents both the PEV and the policies of the farm owners. What I want to ask is: Was Mary Atieno reinstated? What has your union done for her?

Mr. Peter Otieno Ombude: We followed up the matter; I went up to where she was working together with some people. The management said they gave them time to go and once things cooled down, they can come back. But when I asked that it was three months after the PEV--- I talked with her and due to the duress she was undergoing, she was at home. She was not here. She told me that she went to her mother and she would talk to me. I asked whether she would be ready to come back and work. I think she was too traumatized. I asked her again after one week whether she was ready to come back and she told me that she still feared coming back. So, I could not pursue the matter further because the way she was talking, she was in a big problem at home. So, recently, I tried to talk to her and she told me she had gone to Nairobi. She never came back due to what happened. But that is where we reached. The management said that when she comes back, I go with her so that she can be reinstated.

The Presiding Chair (Commissioner Dinka): Thank you very much for that information. You also mentioned that quite a number of workers who left Naivasha during the PEV have come back and have resumed their normal life. In percentage terms, what percentage of the workers who left, were evicted, displaced or ran away came back?

Mr. Peter Otieno Ombude: About 50 per cent came back.

The Presiding Chair (Commissioner Dinka): And what happened to the other 50 percent who lost their jobs and property here? Where are they?

Mr. Peter Otieno Ombude: Because of fear, I think most of them decided to leave and go back to their relatives at home.

The Presiding Chair (Commissioner Dinka): On health issues, where you were working for 17 years - sometimes in dangerous areas like greenhouses - were you given protective gear?

Mr. Peter Otieno Ombude: During that time, we had about six farms around here and caring on issues of health and safety. It is just that within a short time, many other farms have come up and I think due to profits in cut-flowers, they are now 60. Since that time in 1990 up to 1995, there were few farms. People were also few. Many people did not like to work in farms and they were really trying to treat people well because of that. But within a short time, with the coming up of a number of farms, things are changing from better to worse. That is why there is a problem.

The Presiding Chair (Commissioner Dinka): You have not said anything that I remember about the education of the workers. How do you assess that? Is it adequate?

Mr. Peter Otieno Ombude: Because the people are earning low salaries, most of the children--- You will find that after Form IV or primary school, most of the children are employed within the farms. That is because their father or mothers are also working in the farms. Those children cannot pursue further education after getting basic academic

knowledge. Some of them end up being employed in those farms. Some of the farms have primary and nursery schools and so, at lower level, the children of the workers attend school.

The Presiding Chair (Commissioner Dinka): Are those schools run by the farms or do the workers pay for it?

Mr. Peter Otieno Ombude: Most of the schools are farms-initiated schools but the Government also sends teachers to those schools.

The Presiding Chair (Commissioner Dinka): And the workers pay school fees?

Mr. Peter Otieno Ombude: Workers pay school fees.

The Presiding Chair (Commissioner Dinka): My last question is this: In your statement, you have said that Naivasha is now very calm and peace has returned. But the recent Hague debate is creating tension among the community. How bad is it?

Mr. Peter Otieno Ombude: It is not bad; we are staying together very well and there is no big tension that you should worry about. It is calm.

The Presiding Chair (Commissioner Dinka): Thank you very much.

Commissioner Chawatama: I was wondering whether or not this particular witness will be available tomorrow as I think there are aspects of your statement that I felt that you needed to share because it is not just about yourself. You have mentioned the fact that there were about 10,000 people who were displaced and who you met at the police station. You have spoken about 42 people who were killed. There are so many aspects of your statement; some testimony that has not been before us. So, I was wondering whether you would come tomorrow and see whether we can squeeze you in and hear your testimony; your personal testimony this time.

Mr. Peter Otieno Ombude: I have no problem if that will help the Commission to get justice for us.

The Presiding Chair (Commissioner Dinka): Thank you very much for accepting that proposal and we have no further questions for you.

We shall now break for lunch and come back at 3.00 p.m.

(The Commissioned adjourned for lunch at 1.40 p.m.)

(The Commissioned resumed)

(Mr. Ahmed Ali Farah took the oath)

Ms. Bellinda Akello: We welcome you to this sitting this afternoon. Please tell us your names.

Mr. Ahmed Ali Farah: My name is Ahmed Ali Farah.

Ms. Bellinda Akello: Where do you live?

Mr. Ahmed Ali Farah: I live in Naivasha.

Ms. Bellinda Akello: How long have you lived in Naivasha?

Mr. Ahmed Ali Farah: I am sixty years old and I am the fourth generation.

Ms. Bellinda Akello: What do you mean when you say that you are the fourth generation?

Mr. Ahmed Ali Farah: What I mean is that my grandfather and great grandfather were here.

Ms. Bellinda Akello: When did the first generation come to Naivasha?

Mr. Ahmed Ali Farah: In the late 1850s. That is when the first generation arrived; then the second group arrived in the 1890s together with Delamere. We brought Dalamere from Somali land to settle in Naivasha.

Ms. Bellinda Akello: Where did those who came in come from?

Mr. Ahmed Ali Farah: They came from Djibouti and Somali land, which borders Kenya. We came from Somali land which was ruled by the British. Djibouti was ruled by the French and Somalia was ruled by the Italians. British Somali land is where our grandfathers came from.

Ms. Bellinda Akello: Have you lived peacefully in Kenya?

Mr. Ahmed Ali Farah: We have lived very peacefully and I cannot complain about Kenyans. They are very hospitable people.

Ms. Bellinda Akello: So your family lives well and you do not have any complaint at all?

Mr. Ahmed Ali Farah: Our complaint is with the Government but not the citizens.

Ms. Bellinda Akello: What has the Government done to you?

Mr. Ahmed Ali Farah: Our history starts in 1850s when we came with the colonialists. Our great grandfathers were brought to what is now the national park which by then was

known as Buggers. In the mid 1930s, 12,000 families were moved according to what my father told me. We were moved from Buggers which was renamed Princess Elizabeth Park. We were told that we would be taken to Isiolo but we could not get land there, so some came to Naivasha and others went to Kampi Somalia in Gilgil, Nakuru, Busia and Kitale.

Ms. Bellinda Akello: Thank you very much. Going back to the information that you have just shared with the Commission, you said that the successive governments that we have had have denied you your rights.

Mr. Ahmed Ali Farah: Yes, it is from the colonial governments to the current Kenyan Governments.

Ms. Bellinda Akello: Can you tell us how you have been denied your rights from 1963 up to now?

Mr. Ahmed Ali Farah: I would wish to take it slightly back so that I can start from the colonial period. It would have been important to ask the colonialist why they moved 12,000 families from Somali land to dump them here. The British Government should be asked to explain where they thought they were bringing the people. At around 1972, we were evacuated again and 500 houses were demolished in Naivasha and we were blamed. There were the *shifita* conflicts in 1965 in North Eastern Kenya and we were called *shifita* and our houses were demolished. We were told that they would put up a prison to confine the *shifita* and there is a prison there but all the 500 homes were moved out. When you mentioned that you will be coming here, we wanted representatives of those families from Busia and other towns to come in but since we were only informed last evening, we could not bring them in but those in Naivasha are here.

Many people from Naivasha moved to live with their relatives all over Kenya after the 500 homes were demolished. When Lord Delamere was given a farm from Longonot to Njoro, we were given 15,000 acres. Some of us came as sentries for the colonialists and others had escorted Delamere as a settler. So we were given 15,000 acres which we have since lost.

Ms. Bellinda Akello: What happened in 1972?

Mr. Ahmed Ali Farah: I have just explained that our 500 homes were demolished and we were branded as *shifita* yet we knew nothing that was going on in the north.

Ms. Bellinda Akello: What arm of the Government demolished your homes? Was it the police?

Mr. Ahmed Ali Farah: You should mention the Vice President because he is in charge of prisons. We had a school called Somali Boarding School which was the only boarding school in Naivasha at that time and it was officially launched by Sir Evelyn Barring and I

have the photographs to prove that. You can even see the colonial Union Jack. This is a photograph of when it was officially launched and all these children were born here.

Ms. Bellinda Akello: You have claimed that you have suffered a lot of injustices because of land.

Mr. Ahmed Ali Farah: When it comes to land, we had LR Nos. 5210, LR 5211, LR Nos. 5212, 11517 and 1144 and these five portions of land belonged to us. The land starts from Nairobi-Naivasha Road and goes towards Karati and all the way up to Malewa River which is the river that supplies water to the lake. On the other side of LR No. 11517, you go down up to the lake and the lake had not receded as it has now. President Kibaki came to apologize and told us that we will get our land back. We got a letter of appointment which is one of the exhibits given here and we were told to pay. We fulfilled the conditions for the allotment.

Ms. Bellinda Akello: You have given us so many exhibits. Could we start from the first exhibit and explain to us why you think it is important.

Mr. Ahmed Ali Farah: This is our certificate for the group. We call ourselves Naivasha Isahakia Self Help Group.

Ms. Bellinda Akello: The first one is a certificate of registration and we await your confirmation to proceed.

The Presiding Chair (Commissioner Dinka): Please proceed.

Mr. Ahmed Ali Farah: This is our group's certificate of registration, this is the local authority financial statement and these are the minutes. I will go through mine then you can counter-check with yours. I wrote a letter to the former Vice President, Moody Awori, and he acknowledged the letter. Every year, we have to renew our group's registration and the certificates are all here.

Ms. Bellinda Akello: Certificate for registration, followed by minutes and the next document is a letter of allotment.

Commissioner Chawatama: Leader of Evidence, through the Chair, you are losing us, which means that the documents that you have are not in the order that we have received them in. There is need for that to be done. The witness could proceed with just giving us a testimony whilst these documents are arranged in order.

Ms. Bellinda Akello: Much obliged.

The Presiding Chair (Commissioner Dinka): In other words, the documents must be attached as part of his statement. As he gives his evidence, he should refer to them at the appropriate point. Otherwise, we will get confused.

Mr. Ahmed Ali Farah: The information I have is that the Narc Government under President Mwai Kibaki---

The Presiding Chair (Commissioner Dinka): I think to make it easy for all of us to follow, why can he not start with his thematic discussion and go over each point briefly because we have the document and then when he comes to the appropriate place, refers to the documents which we have in the manner it appears in our files?

Ms. Bellinda Akello: May I approach? Mr. Farah, please explain to us some of the issues you would like this Commission to deal with in regard to the welfare of the Isahakia community.

Mr. Ahmed Ali Farah: From the colonial days, we had our own school and we had about 500 homes. We had 15, 000 acres of grazing land and the community grave yard where the veterans of the First World War and the Second World War and those who came with Lord Delamare were buried. I want to mention the land registration numbers and they are LR Nos. 5210, 5211, 5212, 11517 and 1144 and all those belonged to the community. LR No. 5212 was taken away during President Moi's era and it was given to flower farms.

The First World War and the Second World War veterans are buried on this plot and we do not have any allotment letter. Now, these people have put up houses and toilets on top of this. We would not have wished to go through this because whoever did this was a Jew and if Muslims hear that a Jew has built a house on top of Muslims' graves, it would bring a problem. We have been very quiet and have tried to pursue it silently with the Government but we thank God that LR No.5211 was restored to us by President Kibaki under the Narc Government. When he gave it to us, we were given a letter of allotment and we fulfilled all the conditions that were in the allotment letter.

We know that the Government gives with one hand and institutions in another arm of Government attack us. We have about 500 cattle and 350 goats and they attack women and they come with trucks full of people. We are attacked every day. I have a police report because every time we are invaded, there is an entry in the occurrence book (OB) at the police station. Now we have about nine entries in the OB and no action has been taken and even the current Government does not serve our interests at all. Though we would like to thank the Government for restoring one piece of land to us, we have reported more than five times.

Ms. Bellinda Akello: Kindly share the OB numbers with us.

Mr. Ahmed Ali Farah: We have OB Nos.43/9/4/2011,29/13/8/2011, 44/1/02/2011, 43/14/8/2010, 31/16/8/2010 and 35/16/10/2010. No action has been taken on all these entries in the OB. We have a photograph showing people on trailers who attacked the women and children because the men are always in towns fending for the families. It is not the Government but individuals who try to use the umbrella of Government institutions.

There is a pending case in court regarding LR No.5211. The court is trying to revoke it through the Lands Commission but this was allocated to us by a task force and one person cannot revoke it. On LR No.5212, this was a grave yard and a Jew has sold seven plots to a fellow white man and that makes us very bitter because when our grandmothers see their grandparent's graves being mutilated, they are very bitter. The Jew has subdivided LR No.5212 and part of it is under flower farms but where the graves were, they have constructed residential houses. When we come to LR No.1144, we have been given a letter of allotment by the Municipal Council and we have it here.

When I replied to the allotment letter to ask for the conditions, I was instructed to go and subdivide it first. When we went to subdivide, the prison warders came out and dispersed the people with guns so that we could not plant the beacons. When we went to the upper side near the hill, game wardens insisted that it is part of the national park. LR No.5211 which was given to us has all kinds of animals, including about 300 buffalos and 700 zebras, but they are not talking about that; but for LR No.1144, they keep insisting that it was part of the nature reserve despite there being an approval letter by the Land Commissioner that the land is allocated to us. We have some letters from certain ministers, including the Vice President and Minister for Lands. We keep getting dispersed by the prison warders on LR No.1144 and the Kenya Wildlife Service (KWS) warders. These are the government institutions that are fighting us and the ordinary citizens do not find any problem with that.

We were the first families to settle in Naivasha and my grandfather was a chief here and any time a Kikuyu was seen he was asked to report to the police station. My grandfather was issuing permits for Kikuyu to be allowed to be settled here. So there is no tribe that has any problem about us being here. We have relatives here and we have intermarried with all tribes in Kenya but we do not know why the Government institutions are fighting us. The Government is taking us through these tribulations and the Lands Commissioner is also not decisive because Minister James Orengo gave me a letter of allotment but the Lands Commissioner comes and claims to have revoked the same letter which was a decision of a task force. I will end there with that particular parcel of land.

We have a problem with the Kenya Agricultural Research Institute (KARI), the prison and the KWS; and individuals are inciting these institutions to evict us. When Hon. Moody Awori came, the prison wanted to put up an academy on part of our land but he told them that they had about 350 acres of land on which they could do so. The Coalition Government has completely messed up everything.

The current Vice President came here and told us that the school belongs to the Isahakia community and that they would give us the rest of the land. After he left, instead of confining the prison to the 350 acres, they were given more than 800 acres from part of our land.

Ms. Bellinda Akello: Mr. Farah, in your submission, you have said that institutions like KARI have employed youth.

Mr. Ahmed Ali Farah: Yes it is in the photo that I have shared with you. They bring tractors that are full of hired goons and if you want to know that the land does not belong to KARI, as soon as the OCPD joins, it is a problem with KARI. It is KARI that hires goons who fill up the trailer and come to physically assault the women and children.

Ms. Bellinda Akello: Do you know any of those youth among the hired goons?

Mr. Ahmed Ali Farah: The community knows the hired thugs. If it was the Government, why does it not bring in the Administration Police? The Government cannot go and hire goons. Okiya Omtata has come to Naivasha and he has joined the KARI group under the umbrella of human rights. He has joined the group of people who come to evict us from our land and now they are in court. We have been to court twice for the mention of the case and they do not appear. Omtata is one of those activists who are hired by the people under the umbrella of KARI. KARI itself has rented out the land to Homegrown and it is Homegrown that is used to hire the goons. I have here a letter from Homegrown and I have a full book that the National Environment Management Authority says that the Homegrown Company should come back and rehabilitate the land. We have actually lost more than 300 goats after eating the poisoned grass.

Ms. Bellinda Akello: Allow that the letter he is referring to, written by NEMA to Homegrown with a request for an appointment, be admitted as part of evidence from this witness.

Mr. Ahmed Ali Farah: That is the letter.

Ms. Bellinda Akello: Mr. Farah, can you explain to us the injustices you have suffered as the Isahakia community? You have told us that you have been deprived of your land, you have told us how men in your community suffered and you have talked about the assault on the women and children. What recommendations would you like this Commission to consider that would be helpful to the Isahakia community?

Mr. Ahmed Ali Farah: I have about eleven people who have gone mad after their houses were demolished. Some of them have died and a few are still alive. Their children have been brought up by relatives scattered all over the country. Their names are Said Mohammed, Omar Mohammed, Abdillahi, Ishmael, Abdi Mohammed, Ishmael Abdi, Mohammed Ahmed, Ali Simba, Abdi Isubere, Ahmed Hussein and many others who I cannot list.

Ms. Bellinda Akello: What is your other recommendation?

Mr. Ahmed Ali Farah: My next recommendation is that the case that started in January is being delayed up to now. What kind of judge can't expedite this case? It is just the Government's way of trying to delay everything. These other people do not have any document yet we have the documents. The laws of Kenya do not allow parastatals to go to court; it is the Attorney-General who should represent the parastatal but now the parastatal decided to come and assault us.

Ms. Bellinda Akello: The case that he is referring to was recently in the newspaper a copy of which we shall present before the panel. Before we conclude with the witness, we would like to have a view of a clip that the witnesses brought, being evidence of the kind of disruptions they have had on their land and also the evidence that the OCPD was actually there to allow the same people to have the land.

Presiding Chair, if you may allow, we will have two clips of five minutes each that the witness has brought before the Commission and he wishes the same to be viewed.

The Presiding Chairman (Commissioner Dinka): Alright, you may proceed.

(The video clips were played to the Commission)

Mr. Ahmed Ali Farah: I witness the cattle coming in and this is the Government's property and that is the OCPD talking. The court has stopped them from coming in.

Ms. Bellinda Akello: Commissioners, the gist of the clips was the land tussle between the Isahakia community and the Maasai. There was a declaration that the land belonged to Isahakia. They had the District Commissioner who had also gone to the site. The OCPD was also present at the site. The media was there and the DC and OCPD confirmed that there were allotment letters given to the Isahakia Community. They confirmed that the two parcels of land were theirs. They have grown *khat* and henna. They also have relic houses on that piece of land. The same was confirmed before the media to belong to the Isahakia community. The witness would wish the same be made as part of his record.

The Presiding Chair (Commissioner Dinka): Okay, it is part of the record.

Ms. Bellinda Akello: As we conclude, there was also an interesting aspect that was brought about by the Isahakia community.

Mr. Farah, before you leave, we have been told that you keep orphans, accommodate and feed them during the day in order to enable them go to school.

Mr. Ahmed Ali Farah: The truth is that I have Luo, Luhya and Kikuyu children who are orphans. They eat at my place. They are more than 50 children. The Isahakia women contribute for the food and uniforms. A few well wishers also bring food to my plot. I have a title for the plot within Naivasha.

Ms. Bellinda Akello: Thank you very much. Mr. Farah. I would like to assure you that we have received the memorandum on behalf of the Isahakia community. We also have all the documents you supplied us with as evidence of the ownership of the pieces of land you claim. We have photographs. We have listened to you in detail and we know that you have written to Hon. Moody Awori. We also know that you would like your land restored back to you once and for all and you would like the law to be followed. We have all these

evidence and we would like to reassure you that we will investigate this further and the Commission will give its recommendations.

We also know from your memorandum that you would like some compensation for the property that you have lost and the money the community lost, especially in the hands of the Government. We know you have explained to the Commission that the Government should listen to you and especially restrain the KARI to follow court orders.

Mr. Ahmed Ali Farah: That is very true. I would only like to add that the letters of allotment given by the municipal council and the Government should be looked at as legal documents and not just pieces of paper. The KWS should be restrained because it has no papers.

Ms. Bellinda Akello: Thank you so much, Ahmed. We are very happy that you are a community that is not necessarily just concerned about the welfare of the Isahakia community but generally you are willing to assist other communities.

Mr. Ahmed Ali Farah: We are brothers and in-laws with all these other communities. We have intermarried since 1850.

Ms. Bellinda Akello: That is all from the Leader of Evidence.

The Presiding Chair (Commissioner Dinka): Thank you very much, Leader of Evidence and thank you very much Ahmed for your testimony. I will ask my colleagues if they have any questions.

Commissioner Farah: Can you repeat the year you arrived here, Mr. Farah?

Mr. Ahmed Ali Farah: Late 1850s is when the first soldiers accompanied the colonial Government. The others followed in the 1880s with Delamere on his tour and back to settle in 1900.

Commissioner Farah: What happened in 1963?

Mr. Ahmed Ali Farah: After Independence, nothing bad happened. We were punished before 1963, especially in 1952, for harboring the Mau Mau. We were the richest Africans in this area and even East Africa. We had more than 400 exotic cattle and we even had an airstrip. Our elders used to fly from Nairobi but Delamere took this away from us.

In 1963, we celebrated *Uhuru* with all other Kenyans. In 1972 we were attacked because we are Somali. We were punished for the *shifta* problem in the north.

Commissioner Farah: In your fight to get a title deed, when did you start seeking letters of allotment and all that?

Mr. Ahmed Farah Ali: It has been 18 years since we started fighting this. In 2006, Hon. Moody Awori and other Mau Mau veterans took us to State House. The one who fronted for us has since died. However, they said what the Mau Mau fought for was being enjoyed by the senior Government officials only. So President Kibaki, in 2006 instructed that we should have our land restored to us. And through Hon. Amos Kimunya, we were given an approval letter to the council and the letters of allotment to the Isahakia community. The council showed that they had no objection. Now it is the implementation that has become a problem.

Commissioner Farah: After acquiring the letter of allotment, did you go to Ardhi House to process the title deed?

Mr. Ahmed Ali Farah: We got that last year. We started applying for it in 2006. We however, got the letter of approval and the letter of allotment came last December. Hon. Orengo gave me a letter of allotment and I paid for it. This year, women brought in their livestock and when we started construction it became a problem; NEMA came in and said it should be rehabilitated by Homegrown before we settle in.

Commissioner Farah: What was Homegrown growing on your piece of land?

Mr. Ahmed Ali Farah: They had rented it from KARI. Homegrown thinks KARI is the Government and so they have no problem with that. They have been paying KARI for 400 acres. They have been using it for over ten years and they leased it for 15 years. When we complained, they moved out and we got the letter of allotment.

Commissioner Farah: Has KARI got any title deed or any ownership claim to the land?

Mr. Ahmed Ali Farah: Homegrown wrote to me claiming that they had rented the piece of land from KARI. So Homegrown has no problem. They rented and they know that KARI is an arm of the Government.

Commissioner Farah: No, my question is; does KARI have any title deed or claim to the land?

Mr. Ahmed Ali Farah: KARI has just a letter. They do not have a title deed. They would have brought it to court if they had it.

Commissioner Farah: The letter of allotment is recognized by the Government.

Mr. Ahmed Ali Farah: Yes. If it had been a forged one, we would have been in prison. We paid for it and the Commissioner of Lands gave it. So they should recognize it. It is very easy for them to verify.

Commissioner Farah: What is the case in court then if the letter of allotment is yours and KARI as an institution of the Government does not have any documents?

Mr. Ahmed Ali Farah: They have absolutely nothing. That is why I am saying the institutions are fighting us; the KWS, KARI and the Prisons Department. We have no problem with the ordinary citizens.

Commissioner Farah: Thank you very much. I have no further questions.

Commissioner Chawatama: Thank you very much for your testimony. As a result of the statement that you gave, one of the violations that were identified was denial of citizenship. I apologize if you have already addressed this but I would like you to briefly tell us what you mean by denial of citizenship.

Mr. Ahmed Ali Farah: We do not get ID cards. My daughter has three children but she still does not have an ID card although she has a waiting letter. All our Somali children in Naivasha do not have ID cards but they have grown up here. There is even a 50year-old woman who has not been given an ID card. We are not at a border such that they can say we crossed over from another country. This is open discrimination. We do not know Somali land and if the Kenya Government does not recognize us, then the British should do something about it.

Ms. Bellinda Akello: When you talk of “*Waria*” what do you mean?

Mr. Ahmed Ali Farah: In short, when we have our IDs taken away in addition to all the problems that we have had since colonial days, we are trying to ask the British Government where they took the 12,000 families to. We fought on their behalf in Tanzania. We have gone to Burma and they have written books praising us. We have been abandoned here and they have come to build on top of our graves. The Government is not concerned about our welfare. That is why we are asking; where do we go?

Commissioner Chawatama: On the denial of citizenship, you said you are not provided with IDs. What about when the children are born, are they given birth certificates? Do any of you have passports; if so are they Kenyan passports?

Mr. Ahmed Ali Farah: When my daughter could not get an ID, I had to get a passport. She got a passport and visited Britain and back. We only try to push children to get elsewhere to get work. They cannot get work here because there is open discrimination from the Government. We thank the President and the Minister for Lands for the little that they have done.

We still cry to the British Government that we have been dumped here and we are not recognized. I would expect---

Commissioner Chawatama: Please, answer the questions as they are asked so that we can make some progress. Everything that you are saying is very important. But I am asking you specific questions that need specific answers. I asked you whether or not children born are given birth certificates.

Mr. Ahmed Ali Farah: It depends on somebody's luck. Some get.

Commissioner Chawatama: *Off record.*

Mr. Ahmed Ali Farah: When our school was taken away some of our families took children to schools in Gilgil where they are forcefully fed on pork. *Waria* is just another term for Somali. Most children are taken to private schools.

In Naivasha we do not get job opportunities.

Commissioner Chawatama: Thank you very much. That is all I had.

Commissioner Shava: *Mzee* Farah, thank you for coming and speaking with us today and telling us how your people have been living in this country for the last two centuries. My question is specific; I think many of us are used to hearing the name Okiya Omtata as you have said in relation to a character who is a human rights defender. However, you said just now and also wrote in your statement that Mr. Okiya Omtata is working with those who are hiding behind the institution of KARI to try and evict your community from its land. Did I understand you correctly?

Mr. Ahmed Ali Farah: I said they call themselves activists but instead of defending the communities they come to defend Government institutions yet some people are just using that umbrella. He is just part of the hired goons. Why would Omtata leave Nairobi to come here when we do not have activists of his kind? We feel they have just been hired to further the interests of individuals.

Commissioner Shava: Has he ever addressed the community or yourself when he has come and done these actions? Has he ever told you why he is doing what he is doing?

Mr. Ahmed Ali Farah: I tried to talk to him once and asked him to come to the community and listen to their problems. He did not bother. He simply chained himself and moved around demonstrating. Even the DC did not talk to them. I see them coming to KARI with four advocates.

I am wondering why the Government makes me talk to people who have no documents. I do not know what law they are using.

Commissioner Shava: I just want to say to you that the new Constitution under which we are operating guarantees rights to citizenship. I also saw the Minister in charge of Immigration issuing a statement, saying that ID cards will now be issued. I would encourage you to use those avenues to pursue your rights in terms of registration of births and acquisition of ID cards and passports which are now defined as a right and not something the Government can give if they choose or have any discretion over. I just want to give you that hope.

Thank you.

The Presiding Chair (Commissioner Dinka): Thank you, Mr. Ahmed Ali Farah. You have represented the interest of your community very ably. You have brought out clearly the grievances they have. I have one or two questions for you.

One, what is the numerical strength of your community now?

Mr. Ahmed Ali Farah: When we were evicted we were 5,000 families but they are now scattered all over the country and the population must have grown. I am sure that 15,000 acres would not even be enough for the entire community. We are only claiming *manyattas* for 5,000 families.

The Presiding Chair (Commissioner Dinka): What is the number of members that you represent as chairman of the community in Naivasha?

Mr. Ahmed Ali Farah: It is the 5,000 families spread all over the country from Mombasa to Busia. Usually, we take a very long time to mobilize all of them. We thought you would come the day after tomorrow and most of them are actually making their way here. I told them not to bother coming any more.

The Presiding Chair (Commissioner Dinka): Let me get this clear; they have got into other provinces and have started new lives over there?

Mr. Ahmed Ali Farah: They all live with their relatives. We had Somali camp in here, in Kitale, Eldoret and Busia. Nearly every town has a Somali camp with Isahakia community living there. So they went to live there but they still complain about their land and graves. Some have even gone to the North Eastern where they have relatives.

The Presiding Chair (Commissioner Dinka): You think if they get their land back, they will come back?

Mr. Ahmed Ali Farah: Very fast. Currently, they are like homeless people. They know their home is in Naivasha and everybody loves his or her ancestral home. Whenever we have a meeting, we are close to 3,000 people. One of the letters by the local MP mentioned the number he found here.

The Presiding Chair (Commissioner Dinka): You mentioned that the Government has given you back your piece of land. Have they explained to you why they gave you only one piece instead of the whole of it? Have you asked them?

Mr. Ahmed Ali Farah: The way they gave the land to us is not impressive. They made it look like they were allocating it for the first time. They made it look like they were doing us a favour and yet we were claiming our ancestral land. They find it hard to return the other pieces which people are occupying.

The Presiding Chair (Commissioner Dinka): Precisely, that is the gist of my question. If the Government has not given you back the rest of the land in addition to the one piece you have already received, and if the possibility of their giving you back the rest is quite limited, do you think the members of your community who are all over the country now would accept some other land if the Government made that available to them?

Mr. Ahmed Ali Farah: That is very easy to answer. The Government has given me an allotment letter for the LR.No.1144 but we are being thrown out by guns. This is something that will go to court and under Agenda 4, we should get our rights.

The Presiding Chair (Commissioner Dinka): That is the point. The court and Agenda 4 institutions could help and facilitate things a little bit. However, if things are going to take a much longer period and your people are still spread all over the country and all of us aim at reestablishing peace, calm and serenity in this country, in that context, is it acceptable to them if the Government offers to them other lands?

Mr. Ahmed Ali Farah: That is also easy to answer; you demolish my house and then decide that you are going to give me an alternative piece of land in Eldoret or Mombasa. This house had all my sweat and everything; you probably have to pay it in cash. You cannot demolish my home and take me to a forest to give me an empty ground. That is not justice. If we can be given back our 500 permanent houses and property--- We had gold. Our tradition is that when you marry, people keep gold. When somebody has a problem they sell the gold and get money. We lost gold worth millions of shillings. We have gone through a lot of tribulations. You cannot go and give me an empty ground and claim that that is justice.

We would want these families to be compensated. From what I hear, the new Constitution recognizes community land. Even the Government institutions should compensate us for our land that they are sitting on at the moment. We will not stop seeking justice. We were living with other communities and not on our own.

The Presiding Chair (Commissioner Dinka): We understand you Mr. Farah. We hear you and you have represented your community as I said earlier, very ably.

Finally, on behalf of the Commissioners and on my own behalf, I would like to thank you very much and dearly express our admiration for you for the support you are giving to the orphans. I would like to encourage you to continue doing it and encourage others to follow your example.

Ms. Bellinda Akello: Presiding Chair, before the witness steps down, I believe there are members of the Isahakia community in the room today. Through you, we can have them stand so that we can acknowledge them.

The Presiding Chair (Commissioner Dinka): Please, members of Isahakia community who are here, rise up so that we recognize you.

(Members of Isahakia community stood up)

Mr. Ahmed Ali Farah: I would like to ask those who are wearing traditional Isahakia outfit to come out here so that they can be seen. Just stand where the Commissioners will see you.

(Members of Isahakia community in traditional outfits paraded before the Commission)

Thank you.

The Presiding Chair (Commissioner Dinka): We appreciate that. It is a beautiful sight and thank you.

Mr. Ahmed Ali Farah: If you talk to them in Kikuyu, they will speak better Kikuyu than you. They speak better Luhya than you and speak better Luo than you.

The Presiding Chair (Commissioner Dinka): Leader of Evidence, step down the witness and call the next one.

(The witness was stood down)

(Ms. Esther Njeri Mungere took the oath)

Ms. Bellinda Akello: Welcome to the afternoon session. For the sake of the records tell us your full names.

Ms. Esther Njeri Mungere: My name is Esther Njeri Mungere.

Ms. Bellinda Akello: Esther Njeri Mungere where do you live?

Ms. Esther Njeri Mungere: I live in Naivasha town.

Ms. Bellinda Akello: What is your occupation?

Ms. Esther Njeri Mungere: I do community work.

Ms. Bellinda Akello: What do you mean by that?

Ms. Esther Njeri Mungere: I work for the general public, especially children.

Ms. Bellinda Akello: You know community work is general, how do you help the community?

Ms. Esther Njeri Mungere: Since the clashes in 2007, we found that children were most affected and because of that, very many children were orphaned. We decided to come

together in order to work for the welfare of these children and we work on such issues as defilement, child trafficking, child labour, forced and early marriages, FGM and child prostitution.

Ms. Bellinda Akello: You could just go step by step in a systematic way and explain to us these things. You talked about forced labour, what can you say about it in reference to the people who stay here?

Ms. Esther Njeri Mungere: To be honest, children are most affected. There is no water in Naivasha town and so children are used to go and fetch water. They are the ones who sell fish and crash stones in quarries. They do not go to school.

Ms. Bellinda Akello: You are saying that they are not getting education. Whom do they work for so that they do not attend to their education?

Ms. Esther Njeri Mungere: In most cases, there are brokers who get paid and they give some money to the children. From the exhibits I have here, you can see in picture No.3, it talks about a blind woman who walks around with a child between the age of seven to ten years from morning to evening. At the end of the day, the child earns Ksh50.

Ms. Bellinda Akello: Thank you very much. You have also mentioned something like “brokers” What was it all about and what about the blind woman? What was happening to the community?

Mrs. Esther Njeri Mungere: Some people bring in children from Tanzania and they use them to beg. They use the child from morning to late at night.

Ms. Bellinda Akello: You are talking about a Tanzanian woman, was she normal?

Mrs. Esther Njeri Mungere: Yes, she is from Tanzania. They come to Kenya to beg and they use a child. Most of the beggars come from Tanzania.

Ms. Bellinda Akello: When you talk of forced labour, could you explain a bit about that? I can see that some of them work in flower farms.

Mrs. Esther Njeri Mungere: There is a video clip which I would wish the Commission to watch. Some children are transported from places like Kisumu and are used to provide labor. There are also newspaper cuttings which I can submit as exhibits.

Ms. Bellinda Akello: Let us proceed as the technicians set up the equipment.

The Presiding Chair (Commissioner Dinka): Leader of Evidence, have you watched those clips?

Ms. Bellinda Akello: No, Presiding Chairman, the witness has just brought them now and I have not had a chance to watch them.

The Presiding Chair (Commissioner Dinka): Before we accept them, we need to make sure that the dignity and the interest of children are protected.

Ms. Bellinda Akello: I propose that the witness submits the clips to the Commission and then talk about the contents. Then the clips can be kept by the Commission for confidential use, given that they involve children.

The Presiding Chair (Commissioner Dinka): I suggest that she should just go on with her testimony while somebody reviews the clips somewhere before we can watch them.

Ms. Bellinda Akello: Much Obligated, Sir. We shall go on with the evidence but the video clip that you have brought will be previewed and if we think that it is fit for public consumption, we might adopt it and watch it.

You mentioned something to do with flower farms. Could you explain more about it?

Mrs. Esther Njeri Mungere: In the video, there are people who work in flower farms and they earn meager salaries. They go to the rural areas and bring a small child, as young as ten years old, and employ them there. Those children look so desperate and have wounds all over their bodies. There are many problems in the flower industry.

Ms. Bellinda Akello: When you talk of a meager salary, what exactly do you mean?

Mrs. Esther Njeri Mungere: I interviewed them in the videos and you will hear them say that they are paid as little as Ksh500 per month and the woman who brought them would be earning about Ksh3, 500. They go to the rural areas and get an orphan to come and work in the farms.

Ms. Bellinda Akello: Have you complained to the Children Department?

Mrs. Esther Njeri Mungere: We work together with the Children Department and the hospitals around.

Ms. Bellinda Akello: Let us move to the second issue of child defilement. Could you expound on that?

Mrs. Esther Njeri Mungere: Defilement is a very big threat although it has been reducing over the last few months. You could get a six year old child or a 12-year-old child defiled by a step-father or a very close male relative. We have a safe house although there is no school. For example, there is a six year old child who was defiled by the father. We took the child to hospital but the father ran away. The child is still in the safe house but she does not go to school. So, we still have a problem with the children who are affected due to defilement.

Ms. Bellinda Akello: Who are the main perpetrators of this vice? Which cases are common?

Mrs. Esther Njeri Mungere: We used to get about seven cases every week in Naivasha, mostly involving the father or the step-father. If you look at that picture, you will see a small child who was completely devastated. She was admitted for over a year but unfortunately, the perpetrator committed suicide. So, justice did not take place although we took the child for counseling.

Ms. Bellinda Akello: So, you have said that defilement is done by step-fathers or close male relatives?

Mrs. Esther Njeri Mungere: Yes. There are also very many unreported cases.

Ms. Bellinda Akello: Have you ever talked to the Provincial Administration to make sure that all the cases are reported?

Mrs. Esther Njeri Mungere: Yes, we work together as a group, including the Provincial Administration and hospitals. The problem is that in the rural areas, people do not know the rights of children. For those who work in the flower farms, it is difficult because we are not even allowed to go in.

Ms. Bellinda Akello: I can see a newspaper cutting that you have submitted to this Commission. Could you explain to us what it is all about?

Mrs. Esther Njeri Mungere: This is a girl who had been trafficked to Naivasha and the aunt would bring men to her as she pockets the money. The child was about to commit suicide but we managed to rescue her from the aunt's house where she was being sexually abused. Since we do not have a school, the children end up going back to the same places.

Ms. Bellinda Akello: How old is the child that you rescued?

Mrs. Esther Njeri Mungere: She was 12 years old.

Ms. Bellinda Akello: The newspaper cutting is dated 9th July, 2010 and has details of a 12-year-old child who attempted to committed suicide because of prostitution. I beg that the same be admitted as evidence to the Commission.

Mrs. Mungere, as we conclude on the issue of child defilement, is there a special children's desk in the district hospital?

Mrs. Esther Njeri Mungere: Yes. There is also one at the police station.

Ms. Bellinda Akello: Regarding the issue of child prostitution, do you want to talk more about it?

Mrs. Esther Njeri Mungere: As you have seen in the newspaper cutting, there is a 12-year old child who was forced into prostitution. A child is brought from very far and is exposed to men who defile her.

Ms. Bellinda Akello: Are there so many cases of forced prostitution?

Mrs. Esther Njeri Mungere: They are going down now but you can still get one or two incidents.

Ms. Bellinda Akello: Is there anyone who has been arrested for trafficking children and forcing them into prostitution?

Mrs. Esther Njeri Mungere: When we discover such cases, most of the perpetrators run away. They move to other towns like Nyahururu or Nakuru.

Ms. Bellinda Akello: The next issue is about forced marriages. Would you like to talk about that as well?

Mrs. Esther Njeri Mungere: There are some families which hold that as part of their tradition. I do not want to mention a particular ethnic community who do that. Some marry off their children who are in class five or six. We have struggled so much because we are fighting against traditional beliefs that have refused to go away.

Ms. Bellinda Akello: Do you engage in any kind of civic education to try and get that community to move out of such practices?

Mrs. Esther Njeri Mungere: We started doing that over the last few months. We try to educate them and tell them that it is illegal to do what they are doing but changing peoples' beliefs is a problem.

Ms. Bellinda Akello: What about Female Genital Mutilation (FGM)? What would you say about it?

Mrs. Esther Njeri Mungere: That is another common problem. Most of the time, it is the children who send me messages when they know that they are going to be taken for FGM. It is real but we have done a lot of outreach and as soon as the children know that they are being taken for FGM, they call us and we take action. Sometimes, you will find that some administrators like chiefs also take their children for FGM.

Ms. Bellinda Akello: When you rescue a child from FGM, what do you do?

Mrs. Esther Njeri Mungere: The first thing is to rescue them and counsel them. We also try and reconcile them with their parents. In some instances, the parents stop it completely.

Ms. Bellinda Akello: What response do you get from the community when you prosecute those who do it?

Mrs. Esther Njeri Mungere: There are those who do it out of ignorance. There are some cultures that encourage it. Some believe that they must do what their grandmothers did and if they do not do it, then they will be cursed. We try to educate them and we know that at the end of this year, we will have an impact.

Ms. Bellinda Akello: Have you ever followed those who practise it and found out what they think?

Mrs. Esther Njeri Mungere: Most of them come home at night. So, it is very difficult to see them. This is especially difficult for us because the Children Department does not have transport. For example, if we wanted to go to a place like Kinangop there is absolutely no transport to get you there.

Ms. Bellinda Akello: Is there no vehicle in the Children Department in the district?

Mrs. Esther Njeri Mungere: They do not have a vehicle but they borrow from the police or the District Commissioner (DC).

Ms. Bellinda Akello: Could you briefly talk about the problem of child trafficking in Naivasha?

Mrs. Esther Njeri Mungere: Child trafficking is a big issue here because most people move the children from home on the pretext that they are going to educate them. But they employ them in the flower farms. In the newspaper cutting, there is a child who works for a flower farm employee.

Ms. Bellinda Akello: When you rescue those children, how do you assist them to get back to normal life?

Mrs. Esther Njeri Mungere: We rescue them and train them in hair-dressing and dress-making courses. When you meet some of them, you will not believe that they were street children or orphans.

Ms. Bellinda Akello: What does your organization exactly do?

Mrs. Esther Njeri Mungere: We provide food to the children, especially when they close schools. We also provide sanitary pads to girls and try to offer them psycho-social support. We also visit them in schools and empower them with courses like hair-dressing and dress-making.

We also advocate for education because it is the most important thing for the future of the children.

Ms. Bellinda Akello: Thank you, Mrs. Mungere. We have listened to you keenly and we thank you very much for the work that you are doing for the sake of the children. What recommendations would you like to give to this Commission to help the children of Naivasha? We have seen in the media that Naivasha has a big problem regarding children in terms of defilement, forced prostitution and forced labour. Naivasha is one of the leading areas. Why does Naivasha have a high prevalence?

Mrs. Esther Njeri Mungere: The biggest problem is poverty. There are very many people who have died of HIV/Aids leaving behind orphans. We also have single mothers who are busy working in the flower farms and their children roam the streets to look for food, thus exposing themselves to bad people.

Ms. Bellinda Akello: What would you want us to recommend to the Government regarding those issues?

Mrs. Esther Njeri Mungere: I would like to urge the Government to take the Bill of Rights seriously. If the perpetrators are arrested and jailed for a long period of time, it will help prevent recurrence. The Children's Department should be facilitated with a vehicle to help us in rescuing the children. We also do not have a rescue house. There is also one rescue house but there is no school. If we could have one big rescue house with a school inside, we may be able to give more meaningful assistance to those children.

Ms. Bellinda Akello: What is the difference between a safe house and a rescue house? Why do you think a rescue house would be very helpful?

Mrs. Esther Njeri Mungere: A rescue house is big enough and has a school but a safe house is small and cannot accommodate many children. When we want to give assistance to the rescued children, we cannot do that in a safe house.

Ms. Bellinda Akello: Could you go on and mention what other recommendation you would wish the Commission to make to the Government.

Mrs. Esther Njeri Mungere: I would like the Commission to recommend that the orphaned children should get education since they are very affected and no one is concerned about them. I would like you to recommend to the Government to look into the plight of orphans. The Government should provide them with education and take care of them wherever they are found.

Ms. Bellinda Akello: For our records, would you tell us how many children you have in your custody?

Ms. Esther Njeri Mungere: That list is for last year and we might have another one this year.

Ms. Bellinda Akello: How many children did you have last year?

Mrs. Esther Njeri Mungere: I do not have the figure but we have cases of defilement, negligence and so on. There is a big document here and if you do not have a copy, I have one here.

Ms. Bellinda Akello: Every sector has been separated from the other because we would like to find out whether there is a decrease or increase. There are cases of trafficking and defilement. Between boys and girls who are more? Do we have cases of sodomy?

Mrs. Esther Njeri Mungere: There is sodomy but the cases reported are few. In most cases, it is the girls who are mostly affected.

Ms. Bellinda Akello: You have also indicated that family planning would reduce the effects on children. What do you mean that family planning is the missing link?

Mrs. Esther Njeri Mungere: It is true because if the children are many and become orphaned, it would be difficult to be taken care of. For example, last week, we buried a child who was killed by street boys but the grandmother had nothing. I would like to thank the Government because it waived the hospital bills. When we talk about family planning, I know it is essential because if the children are only two, you might find someone who is willing help. So, it is good that we embrace family planning.

Ms. Bellinda Akello: Are most of the children who are victims born in the streets?

Mrs. Esther Njeri Mungere: Yes. We also have so many sex workers in Naivasha. The flower industry has attracted very many people. Some came thinking that they would get good employment but did not get it. There are those who are victims of gender violence, leading to separation. Such women do not have any means of earning income other than selling their bodies. In such a case, if she dies of HIV/Aids, the children suffer.

Ms. Bellinda Akello: Thank you very much for being brave enough to come and tell us what you do for the community.

The Presiding Chair (Commissioner Dinka): Thank you, *Mama* Esther for what you are doing and also for coming to share your concerns and views with us. I would like to ask my colleagues if they have a question to ask you.

Commissioner Chawatama: Thank you. *Mama* Esther, I would like to thank you for the work you are doing. We can see how passionate and committed you are. We thank you for that. I wonder whether there is any link between the condition of the workers in the flower farms and the rising numbers of flower farm workers in the issue of child abuse.

Do you think there is a link? We heard earlier from the secretary general of the union about the conditions of the flower farm workers.

Mrs. Esther Njeri Mungere: At one point, we tried to talk to investors in the flower farms and requested them to come up with a day care so that women who are poorly paid could leave their children in the day care centers, but none of them has responded. This would enable breastfeeding mothers to feed their children during the day and take them home in the evening.

Commissioner Chawatama: I am looking at the newspaper cutting where you led the arrest of a woman in Naivasha for abusing a ten year old girl whom she had employed as a house help. The woman was a flower farm worker. The small girl had wounds and was seriously injured. Why would that woman do that to that child?

Mrs. Esther Njeri Mungere: The child had no one else to fend for her. She used to pay the girl Ksh500. She was physically abused and sometimes I was called at midnight and told that the girl had been thrown out of the house in the rain with no food. The lady might have been bitter because she used to pay Ksh500 which was a substantial amount of what she earns per month. So, she could just treat that child like any other worker.

Commissioner Farah: As my fellow Commissioner said, you have a lot of passion for this work. Your group is a self-help volunteer organization and nobody is paying you. We thank you for that. Your memorandum is very detailed and I have read through it. I do not have questions to ask you.

Commissioner Chawatama: I join the other Commissioners in thanking you. I can imagine the number of children you have in your custody. The issues that you have talked about are weighty and it is very worrying as a Commission because everywhere we have gone, we have heard of the impact that ethnic clashes have had on the lives of women and children. Having heard the voice of women and children and having heard their cry for peace, I do not know what their menfolk are doing.

Commissioner Shava: Through the Chair, I think the translation was not correct. The Commissioner said she does not know what their menfolk are doing.

Commissioner Chawatama: Yes, that is what I said.

The Presiding Chair (Commissioner Dinka): Could we get the right translation?

Commissioner Chawatama: Women and children are normally referred to as vulnerable. I think the voice of women and children should be heard by men. We have heard also how men have been affected but not to the extent of the women and children. In women's only meeting, the women have really cried for their children. We have so many helpless widows who do not know where to turn to educate their children or for medical services. Thank you for the work that you are doing. You are complementing the efforts of the Government. The Government should recognize your work and take some

of your recommendations seriously. Continue with your hard work and the Commission will do its part in ensuring that recommendations are made that will impact the lives of the children that you represent. I have no questions for you other than thank you and encourage you so you do not labor in vain. We celebrate people like you and other Kenyans that we have met who have not given up but picked up the cause and who have done something to change lives. Thank you.

The Presiding Chair (Commissioner Dinka): Thank you very much, *Mama* Esther for the work that you are doing and for coming to share with us. My colleagues have spoken about your passion and commitment to rescuing children. That work consists of a number of things, including identification of children who are suffering and rescuing them;

feeding them, taking care of their medical needs and possibly educating them and then also, if possible, re-uniting them with their families because they have been snatched away from faraway places although they are in the same country. You have been shouldering the responsibility by yourself using your resources. You have done a wonderful job. I have one question. What is the extent of Government contribution to your effort? You are actually doing the work that the Government should be doing.

Mrs. Esther Njeri Mungere: To be honest, the Government has come in to assist. As I have said, we do not have means of transport. We may be asked to go and rescue a child in Kinangop. When we approach the DC, she helps. She gives us policemen and a vehicle to go there. Sometimes it means arresting people. So, the policemen assist in arresting some of those people. When we get to hospital, the child is attended to immediately. So, the Government has done what it could.

I would like to request the Minister for Gender, Children and Social Development to allocate a vehicle to the Children's Department here. Sometimes you might want to rescue a child but you find that you have no means of getting to the location where he is. In most cases, we are called at night.

The Presiding Chair (Commissioner Dinka): Have you also tried to partner, for example, with the Red Cross Society to mobilize resources and expertise in this kind of thing, including the re-union of families? If you can get assistance from them, probably your task will be much easier. In that regard, do you have any suggestions for the Commission to, perhaps, approach these organisations?

Mrs. Esther Njeri Mungere: First of all, I would like to request the Commission--- We are very grateful that you have been able to come here and listen to us. No one else has come here to listen to us or listen to the cry of the children but you have come here to listen to the problems that afflict these children. What I would like to recommend is, we should get a vehicle in the Children's Department to help us respond very fast. We also want the Provincial Officers to assist us. When children reach certain age, they run away from school for five to seven days. They need sanitary pads and this puts the girl child at a disadvantage.

The Women for Care know what I am talking about. Even the teachers know that we have really tried to the extent that we are now providing them with home-made sanitary pads. The orphans really have no one to run to. When they go to their grandmothers, they tell them to get old pieces of cloths, which expose them to infections. So, I would like to ask if there is a way the children could be supplied with sanitary pads, I would be very happy. I know what they are going through. Sometimes the teachers approach us and tell us that all the children have run away from school because they lack sanitary pads. It is a very big problem, especially for those children who have no one to turn to for help. If we could get them once in a month, we will be very happy.

Women in the audience know exactly what I am talking about. If you are a parent, you take care of your children but those without parents or those with parents who cannot afford to buy sanitary pads are exposed. So I would like to once again reiterate the idea of the vehicle for the District Children's Officer and ask the Government to take more interest in children, especially in the orphans, in order to help them because they have rights just like other children. Sometimes personalities in Government talk about this issue but they do nothing to help. Sometimes they seem to blame their parents, who may have died of HIV/Aids. They are very bitter. Sometimes they say that if they go to heaven they will never shake hands with their parents. We make them to understand that the only parent they are left with is the Government. So, they should look at the Government as their parent.

The Presiding Chair (Commissioner Dinka): Thank you very much. I have no further questions, except repeating what my colleagues have said. I salute you and salute your efforts. I would like to encourage you to continue with the good work.

Thank you very much.

Mrs. Esther Njeri Mungere: Thank you very much.

Ms. Bellinda Akello: Presiding Chair, next is Witness No.6 on your list.

(Mr. Daniel Omichisha ole Kisai took the oath)

Ms. Bellinda Akello: Daniel, welcome to these hearings. Please, tell us your full name.

Mr. Daniel Omichisha ole Kisai: My names are Daniel Omichisha ole Kisai.

Ms. Bellinda Akello: Where do you live?

Mr. Daniel Omichisha ole Kisai: I stay at Longonot Location in Mai Mahiu.

Ms. Bellinda Akello: You have come to represent which particular group?

Mr. Daniel Omichisha ole Kisai: I have come to represent the Maasai who live in Naivasha.

Ms. Bellinda Akello: You have come to represent them as who?

Mr. Daniel Omichisha ole Kisai: I am the person who has been elected chairman to represent the Maasai.

Ms. Bellinda Akello: Thank you very much. On behalf of the Maasai, what would you like to present before the Commission today?

Mr. Daniel Omichisha ole Kisai: First, I would like to express my joy and praise the Commission because I think it is God who has sent them here. I would like to ask what the name “Naivasha” means to you as a Commission. I am not asking the Maasai people here. I am asking the other Kenyans. What is the meaning of the word “Naivasha”; can anybody answer me?

Ms. Bellinda Akello: Please, explain to us, Mr. Ole Kisai.

Mr. Daniel Omichisha ole Kisai: “Naivasha” is a Maasai word since the time God created the world. So, we are not new in Naivasha. We have come from the end of the district. We came here very early in the morning. What I would like to urge is that if you go to another place another time, please think about us because we were about to think that we had been discriminated against by this Commission. We have been here all day, but we know what has been going on. For us Maasai people, the word “Naivasha” means “water”.

The Presiding Chair (Commissioner Dinka): Mr. Kisai, you said that you knew what has been going on. Can you tell us what you think has been going on?

Mr. Daniel Omichisha ole Kisai: What I mean is that we, the Maasai people, have been here since morning but we had not been given chance to talk. We went to Nakuru during the Ligale Commission hearings and the Commissioners then tried to give a chance to every ethnic group to speak. There is a lot of unrest over land in Naivasha. After we had stayed late into the evening---

Commissioner Chawatama: Leader of Evidence, can you show the witness where they appear on our list? According to our list, we said that we would hear you between 2.00 p.m. and 5.00 p.m. We took a break for lunch and came back after 3.00 p.m. So, you were scheduled to be heard in the afternoon. So, it is not right for you to raise what you have raised. We asked you to come to this Commission because we knew that you had something that you needed to share with us, and that we needed to find time to hear you. The other witnesses also came early. So, please, bear with us. It has been a long day but we welcome you with open arms. Please, proceed and give us your testimony, but we would also like you to be assured that you were not being punished in any way; you were scheduled to be heard in the afternoon.

Thank you very much.

Mr. Daniel Omichisha ole Kisai: Presiding Chair, I also thank you very much. I would like to apologise for my statement.

What I would like to explain is that the colonialists took our land in this area. The whites threw out the Maasai when they colonised this country. You know the history very well as Kenyans. Naivasha area, all the way to Nakuru, all those are Maasai names. We are the ones who were evicted by the whites. People came here and said that they have been marginalised. Some of us were misplaced by the whites. Even the Government that took over from the whites, led by the late President Kenyatta, did the same thing. The late Kenyatta did not restore the ownership of our land to us. He just left it as the whites had left it.

We, the Maasai people, have four pieces of land from which we said we will not move out. We will not move out because we have been pushed to the wall. We are talking about the following farms: Mai Mahiu Satellite Farm, Namucha, Kite, Kedong Ranch and Ewaso Kedong, where you once saw us being attacked from the air because of fighting over water. That is where the Maasai are. We have no problem with the neighbors we live with. What we can say is that it is the Government which is bringing conflict between us and our neighbors, because the Government does not want to say the truth.

We believe that this Commission came from Heaven. God brought it down from Heaven. We have no problem with this Commission. What we want is an explanation. The farms that were taken away from us, where our people are now living, why can't the Government make it clear that they belong to us? We border the Kikuyu of Mai Mahiu. We share the same river with them. We go to the same farms. They come to buy goats from us. We buy food from their shops in Mai Mahiu but the Government comes in and brings politics. For example, we were attacked from the air. There is a video footage of that attack. I believe that this Commission has seen graves. They know that we were attacked in February, 2005. Build on those graves a monument because we know that it is the Government which attacked us, not the Kikuyu. We still have a lot of bitterness as the Maasai people.

We do not understand why our land should be taken away and then get attacked by the same Government, which should be taking care of us. Forty-eight of us were then arrested and taken to Nakuru. The pastor who is next to me was amongst those who were taken to Nakuru by a police helicopter.

I would also like to say that the Maasai and Kikuyu have decided that the four pieces of land that I have mentioned here will bring peace. The Kikuyu are in Mai Mahiu. They are in Longonot and Kirak areas. We have no problem with that. We co-exist with them. When it rains on farms belonging to the Kikuyu and they are not farming, they allow me to go and graze my cattle. When some people in the Government come hunting for votes, they come with problems. They speak a different language, which brings conflict between us. So, the Maasai people have declared that the four pieces of land that I have mentioned, namely, Kite, Olongonot, Namucha and Olomayana, are claimed by no one

else other than the Maasai people living there. So, if this Commission can make sure that the ownership of these land parcels is restored to the Maasai people, without having to resort to fighting, we will be happy. We will not ask for anything more. We will co-exist with the Kikuyu people very well.

When we sit as joint peace committees, we do not differ. The ACK Church has convened peace meetings. We have elders who have been selected to be members of the peace committees. I have not mentioned the land registration numbers. The first one is LR/1191/2. The second one is LR/378 and the other one is LR/396.

To conclude on the issue of land, I would like to ask this Commission--- God has blessed you and brought you to look for the truth. We have a case in court. I am not just talking about fighting. There is a court order. We are represented by the Public Law Institute – Kituo cha Sheria – who have come to make sure that we have our rights restored upon us. Another case is by the chairman who represents the other farm. All these cases are in court. We believe that this Commission will give us the way forward. When the court gives an order, this Commission should ensure that that court order is enforced. When the court order indicates that we should not fight our neighbors, while we await determination of the case, the court order should be implemented so that if it turns out that the land belongs to Kikuyu people it goes to the Kikuyu; if it turns out that it belongs to the Maasai people, it should go to the Maasai. If this Commission has anything else it can do to make sure that justice prevails, we ask you to do it.

To conclude on the issue of land with great regard to the Maasai people, I am not saying that the Maasai people came here in 1850 but we believe that since Naivasha came into being, the Maasai people have been here. I do not even know what generation of the Maasai was the first to come here. That is all with regard to land.

I will now move to the issue of aerial attacks by Government security personnel. We were innocent but we were attacked by Government security personnel. Our wives were raped. Our children who were on school holiday were made pregnant. Some of them even contracted sexually transmitted diseases. Since it was the Government which was behind the rapes, they were never concerned. So, we are asking this Commission to investigate and get the Government to come and investigate this matter further.

I will now talk about Ol Karia, where we have the geothermal power plant. This plant is on Maasailand and is helping all Kenyans. The steam that comes from there affects us. We do not know whether it affects our ability to have children but it does not benefit the Maasai people in any way. So, we would like the community to benefit from the Ol Karia Geothermal Power Plant. We have gold taken out of our land and we are left like fools, with no compensation at all. If we could get a percentage of what comes out of the geothermal power plant, we could use it to educate our children, especially now that the Maasai people have decided to embrace education.

So, we are asking this Commission to recommend to the Government that KenGen and other private companies operating in this area should plough back part of their profit into

Maasailand. Nowadays we even sell waste from goats to people. Why should they come and benefit from the steam that is emitted from here when the original owners of the land do not benefit in any way? We also want to talk about KenGen. There are committees that have been set up by the Maasai people to fight for their rights. We have noticed that many people have been employed to work in KenGen but the Maasai people are not at all employed by that company. They employ people from other communities but nobody is employing any member of the Maasai community. That is why we keep on engaging in demonstrations in this area. We feel that it is not right for people to come into somebody's compound, benefit and leave the owners of the compound without any benefit. So, we are asking this Commission to recommend to the Government that we should also benefit from the activities going on on our land.

When it comes to the farms, only two families benefited from those farms – the Kenyatta family and the Njonjo family. So, we would like to know how they ended up with all this land. The white men had employed our parents. As they were leaving, they said that they were leaving the land to our parents. There was a lease but you cannot see anywhere the white man said they had sold the land to us for such and such amount of money. There was no agreement that was signed. We would like this Commission to help us to get back the land we lost to the white man. The Government that took over from the white man also brought about some injustices, but we shall not move out of this land.

I was talking about community representation. This is where we have the biggest problem. The other day, we elected people to work with KenGen, who had asked us to appoint a liaison committee which would discuss with them on behalf of the Maasai community. However, the Government still has a problem with that arrangement. Those in Government get all the tenders. So, if you have a way of bringing out this, we would like to know the truth.

Talking of re-settlement, the people who live near the geothermal power stations are affected. You may realise that somebody who plans to have ten children ends up having only two. Our birth capability has been reduced by the steam that comes from the power plants. So, we would like some kind of compensation and agreeable re-settlement. The Maasai people should be represented on the board, so that they know exactly what is happening there. The Maasai people are also asking for their rightful share of KenGen.

I would like to conclude by talking about peace. We are very peaceful people. We have no problem with any other Kenyan. The Government talks about peace and you are here to bring us back together. The other day, we had a meeting. We told members of the Kikuyu Community to speak out and say where there was a problem. We also got a Maasai to say where the problems were between us and the Kikuyu. We were given a chance to discuss. I know that this Commission will give us the truth, and there will be no problem. In 2012, we will have peace. We will vote, go back home and wait for the results.

Talking of marginalization, the new Constitution in Article 67 says that anybody who has had a problem to do with land in the past, the Constitution has a way of resolving such

past historical injustices. We know that it is Kenyans who wanted the new Constitution. We know that the new Constitution will give birth to counties. With counties will come localized governments. For us Maasai in Naivasha, we do not want to be left behind. We would like to be in the forefront in the sharing of resources within Naivasha. Therefore, we would like equal representation for the Maasai people.

Thank you for listening to me.

Ms. Bellinda Akello: Thank you, Mr. Kisai. You have talked about a helicopter that attacked you in February, 2005, and that somebody called “Jane” was in that helicopter. Which Jane?

Mr. Daniel Omichisha ole Kisai: It was Hon. Jane Kihara, the MP of this area at that time.

Ms. Bellinda Akello: She was accompanied by whom in that helicopter?

Mr. Daniel Omichisha ole Kisai: I do not want to lie to the Commission. There was also a pastor in the helicopter. He can explain what he saw in the helicopter.

Ms. Bellinda Akello: Due to time constraints, you can tell us. I know that the pastor has told you something. Tell us who else was in the aeroplane.

Mr. Daniel Omichisha ole Kisai: In the aeroplane, there was also a councillor called Muribo, who is the Mai Mahiu Councillor.

Ms. Bellinda Akello: Who else was in it?

Mr. Daniel Omichisha ole Kisai: There were armed GSU personnel.

Ms. Bellinda Akello: Thank you very much. You also said that some women were raped and that girls who were coming from school were impregnated. Who raped them and who impregnated your girl children?

Mr. Daniel Omichisha ole Kisai: I cannot say that this was done by the Kikuyu people. It was actually done by the armed GSU personnel. Hon. (Jane) Kihara had been saying that the Maasai men had run away into the caves. So, they came to our homes. We had run away to save our lives. So, they had all the time to do whatever they wanted with our wives and children.

Ms. Bellinda Akello: Were they in specific uniform?

Mr. Daniel Omichisha ole Kisai: Their fatigues were spotted.

Ms. Bellinda Akello: Thank you for speaking eloquently. You have represented the Maasai community very well. Before we finish, I will give the Commissioners time so that they can ask you questions for clarifications.

Commissioner Farah: Daniel, what is the size of the land that you are claiming?

Mr. Daniel Omichisha ole Kisai: Kedong Ranch is about 75,000 hectares. It belonged to a white man called Lord Nasore, who had grabbed it from the Maasai people. It stretched from Suswa all the way around Longonot and borders the farm where we live in at the moment. The farm I live on now is 3,000 acres. Namucha is 8,000 acres. In respect of Kite, which is also known as Ewaso Kedong, I do not know the exact acreage, so I do not want to give misleading information. The chairman of Lemayana Farm is here. We would have brought the maps and all files with us if we had known that the Commission would need all that information.

The Presiding Chair (Commissioner Dinka): What is the history of your claim to this land? Have you been to court and places like that?

Mr. Daniel Omichisha ole Kisai: Yes, I have gone to court as I explained before. We have gone to Ololiwot because that is where I live. That is where I was born. We have gone with the Commission. We will bring the file with all the evidence there is if you want us to share this with you. You can even interview the lawyers to see how far they have gone. We have done our part of the work.

As you know, during the time of former President Moi and the late Jomo Kenyatta, only lawyers used to deal with cases and cases would remain in court for even 20 years. People die. So, lawyers were just in business. People had no confidence in lawyers. However, we now know that hearing of the case is being expedited.

The Presiding Chair (Commissioner Dinka): Thank you very much. I have no further questions.

Commissioner Chawatama: Daniel, thank you so much for your testimony. My first question is going to be on the matters that have been before court. You were right that once a court order has been granted, it should be implemented unless that order has been stayed, pending an appeal. So, it would be helpful if you shared with us the latest documents from court and then we would be able to understand and follow what happened.

As a Commission, we are happy to hear that you continue to have talks between the Maasai and Kikuyu communities. It makes the work of the Commission easy when different communities are talking in their quest for peace. You mentioned the power plant and steam. You said that there had been problems in child bearing. Do you know of anybody who has sought medical assistance to establish the impact of this steam that you have talked about on child bearing?

Mr. Daniel Omichisha ole Kisai: To be honest, we know that the steam affects us. If you go there, you will find that the experts there insist that we have to be re-settled elsewhere. They insist that we have to be re-settled. The cattle of some of the people who were displaced, and who live near the power plant, suffer from strange fevers. Whenever the veterinary officers came in, they thought that they were affected by steam that comes from the earth.

There is something I had forgotten to mention earlier on – something concerning Naivasha. There were areas where our cattle used to go and drink water. Somebody talked about people who work in the flower farms. The corridors through which we used to take our cattle for watering have been blocked. Our cattle now cannot access Lake Naivasha, and that is another form of injustice that the Maasai people are suffering. We had between eight and ten corridors but because of the flowers which are taken to many countries, our cattle cannot access Lake Naivasha. It looks like the Maasai cattle do not have any value. So, I would like this Commission to also find out whether we still have those corridors. Why have they been blocked?

To answer your question as to how the steam affects us, we have already been told that we will be re-located because they know that the steam affects us. So, we know that the steam affects us. The Chairman of the Ol Karia Liaison Committee is here. So, I am not talking about things I do not know. I am talking about things we have investigated, and we know that this Commission will follow them up. If I lie to this Commission, I will be lying to God.

Commissioner Chawatama: My last question touches on the land in respect of which you mentioned that when the white farmers left certain farms, they left those farms to your fathers. Did you say that there are any documents to support what you have told us?

Mr. Daniel Omichisha ole Kisai: There is the lease of 99 years that the white man left behind, which has since ended. So, the lease that we were given came to an end. We believe that that lease is our evidence. We are trying to follow it up. If Kenyatta and Njonjo bought land there, we are wondering how much money they paid for each acre. We are not talking about things we do not know.

The other day, someone talked about the title deeds. We were demonstrating together with them here. So, we Kenyans from this area are trying to resolve these issues but we cannot manage to get through.

Commissioner Chawatama: Thank you very much for your testimony, and for answering my questions ably.

Commissioner Shava: Thank you very much, Mr. Ole Kisai. I just have one question for you. You said earlier that you spoke at length to demonstrate how you have no problem with your neighbors. You eat maize together, you buy from their shops, they buy your goods and they let you run the cattle through the field once you have harvested. So, you live well together. Then, you said that the problem is not your neighbors, the problem is

elections and politicians. So, as a community elder and together with your fellow elders whom you said are here, I would like to know which role you would play to ensure that the 2012 elections are peaceful in your area. You said that as long as you can speak with your neighbors through Commissions such as this and other initiatives, the 2012 elections will be peaceful in your area.

I throw back the question to you. You as community elders and leaders of your people, what will you tell your people as you approach the 2012 elections to counter some of the messages politicians give in the run-up to elections?

Mr. Daniel Omichisha ole Kisai: Explain to the leaders how we vote in Kenya. If you can explain to them that we do not have any problem with our neighbors, there will be no problem. Politicians should not incite communities. They should not insist, for example, that Kedong, where I have expended all my resources, belongs to them.

(Power failure)

Commissioner Shava: I think I can proceed now. Hansard, are you ready for me to proceed?

(The Hansard Team nodded in the affirmative)

Thank you very much. *Mzee*, but I am still hearing you talking about other people. My question was; what would you do? You have told us that you are also an elected leader. So, I am asking you, what is your role and that of your Chairman? What would you do to ensure that the elections in your area are peaceful?

Mr. Daniel Omichisha ole Kisai: I would like to explain to my fellow Kenyans that if you kill another person, you have killed yourself. If you love your neighbor, you bring blessings to yourself. I say this all the time in Mai Mahiu and other villages. I talk to my fellow Maasai. Even though my councilor belonged to a different party, I voted for him. I wanted to kill the devil that brought conflict among our communities.

Politicians should not incite communities. Kenyans love peace. I would like to thank you for this and ask God to bless you and the work that you are doing. I believe that this is a Commission that was brought by God. I am still going to answer any other questions that you would like to ask. I am telling you exactly what I think.

The Presiding Chair (Commissioner Dinka): Thank you, Mr. Daniel ole Kisai for your testimony. I have no questions for you. But I would like to thank you for coming and sharing with us the hope, aspirations and concerns of your community. I would like to assure you that the Commission has heard you and takes the matter very seriously and will come up with appropriate recommendations.

Ms. Bellinda Akello: Presiding Chair, maybe before he steps down, you can have the members of the Maasai community present stand just to be acknowledged as well.

The Presiding Chair (Commissioner Dinka): Please, Members of the Maasai community stand up so that we can see you and recognize you.

Mr. Daniel Omichisha ole Kisai: Others have gone back. But I am really happy that you have allowed us to stand before this Commission. I am sure they are also very happy to be recognized. Thank you very much.

The Presiding Chair (Commissioner Dinka): We have recognized you. We have seen you. Please take your seats.

Evidence clerk, you can now step down the witness and bring the next.

(Mr. Daniel Omichisha ole Kisai was stood down)

(Mr. Stephen Kimani Mbugua took the oath)

Ms. Bellinda Akello: We welcome you to this session of the hearings. For the record, kindly tell us your names.

Mr. Stephen Kimani Mbugua: My names are Stephen Kimani Mbugua.

Ms. Bellinda Akello: Mr. Kimani, where do you live?

Mr. Stephen Kimani Mbugua: Currently, I live in Gilgil. I run an NGO school but my family is at the Flyover in Magumu Location of Nyandarua.

Ms. Bellinda Akello: How long have you lived in Gilgil, Mr. Kimani?

Mr. Stephen Kimani Mbugua: For the last nine months.

Ms. Bellinda Akello: Where were you living before you moved to Gilgil?

Mr. Stephen Kimani Mbugua: I was living in Naivasha. I went to Gilgil because I wanted to relocate my school. Before I came to Naivasha I was at the Flyover in Magumu Location for about six years, having come from Maela IDP camp, which was a product of the Enosupukia evictions.

Ms. Bellinda Akello: When were you evicted from Enosupukia?

Mr. Stephen Kimani Mbugua: I was evicted from Enosupukia on 15th October, 1993.

Ms. Bellinda Akello: Mr. Stephen Kimani Mbugua, what positions do you hold in society over and above owning an NGO school?

Mr. Stephen Kimani Mbugua: I am the regional co-ordinator of the IDPs network in Kenya. My region is Naivasha. I also volunteer to counsel those who have been evicted due to post-election violence. Of late, I have been assisting the TJRC in civic education on a voluntary basis.

Ms. Bellinda Akello: Thank you. Which other organizations do you work for?

Mr. Stephen Kimani Mbugua: I am an IDPs network official in charge of Naivasha zone. We have been interacting with the Kenya National Commission on Human Rights, Kenya Human Rights Commission, United Nations Development Programme (UNDP), and of course, the Catholic Justice and Peace Commission- all geared towards uplifting the standard of living of the IDPs. Otherwise, since evictions, the successive Governments have not done anything to address that problem.

Ms. Bellinda Akello: Have you been working in collaboration with any known personalities in Kenya?

Mr. Stephen Kimani Mbugua: Yes we have. We engaged the services of Hon. Koigi Wamwere, who presented our Motion to Parliament in 2003, when were demanding resettlement, compensation and rehabilitation. The Motion was tabled in Parliament and passed although rather poorly. Since, then we have been waiting for resettlement.

Ms. Bellinda Akello: Any other persons?

Mr. Stephen Kimani Mbugua: Those organizations I have mentioned, including the Kenya Land Alliance officials, who have been assisting us materially, financially as well as advocating for our rights.

Ms. Bellinda Akello: Have you engaged with one Hon. Paul Muite or Father Antony Kaiser?

Mr. Stephen Kimani Mbugua: Father Kaiser was like our father in Naivasha. He was taking care of the school fees of our children, especially those who were in secondary schools, colleges and universities, before the fateful day when he met his death. Hon. Muite also acted as the advocate of those nine victims who were arrested and taken into confinement in Nakuru. Father Kaiser paid for their bond and they were released. Finally, the State withdrew from the case.

Ms. Bellinda Akello: Thank you very much, Mr. Mbugua. We also have on record issues that you have tried to elaborate before the Commission. We already have issues on land evictions, where you have gone very well to talk about how people were evicted. An estimated 20,000 people were evicted from Enosupukia, majority of who were from the Kikuyu community. Who instigated the evictions?

Mr. Stephen Kimani Mbugua: I beg this Commission to allow me to name names so that I can put the record straight.

Commissioner Chawatama: Does the Leader of Evidence through the Chair know if the persons to be named have been notified and whether or not the names are in the statements that were given to us?

Ms. Bellinda Akello: I shall confirm. Commissioner Judge Chawatama, the names that the witness wishes to present had not been presented before the Commission and they are new personalities. Only one of them is in the statement. But the rest are not in the statement so they have not been officially notified or invited to give testimonies.

The Presiding Chair (Commissioner Dinka): We have consulted whether you should name names. There is only one name in your statement and you want to verbally add to that. The Leader of Evidence has informed us that nobody has been informed so far. So, what we have agreed or what we have decided is that the witness will give the names to the Leader of Evidence in writing and we will take it from there.

You can do it later. Continue with your testimony without naming names.

Ms. Bellinda Akello: Thank you very much, Presiding Chair. Mr. Mbugua, so maybe, that was the gist of the land evictions which you have put in your statement and which started in October, 1993. Is that the correct position?

Mr. Stephen Kimani Mbugua: Actually, it did not start in October. It had started sometime before October but that was the climax of the evictions.

Ms. Bellinda Akello: Thank you very much. Something else that your group has talked about is loss of life and that in the process of resistance a number of people lost lives. The same parcels of land you have already documented with the Commission and you have indicated that they were not the only ones who were killed during the evictions.

You also talked about tribalism and you indicated that before the evictions people interacted harmoniously irrespective of tribe. What in your view caused the incitement or encouraged tribalism and the heat that came with it?

Mr. Stephen Kimani Mbugua: As far as we the inhabitants then were concerned, the conflict was politically instigated. That is also our statement.

Ms. Bellinda Akello: So, you say it was bad politics.

Mr. Stephen Kimani Mbugua: Yes.

Ms. Bellinda Akello: Thank you very much for that clarification. You have also spoken about loss of livelihoods and indicated very clearly in your statement that farmers lost crops. Businesses were also destroyed and a lot of property lost. Many Government employees were displaced and landlords lost buildings and other valuables. Thank you very much. You have good recollection.

Finally, you have spoken about resettlement. You have indicated that you have become very dependent on a few organizations and the evictions also caused many children to drop out of school.

Mr. Stephen Kimani Mbugua: It is true, including my own children.

Ms. Bellinda Akello: Kindly tell us, which organizations were these that you were depending on as victims?

Mr. Stephen Kimani Mbugua: As victims, we were fed by the UNDP. We were also fed by the Catholic Church, Oxfam, and of course, other churches under the umbrella of the Catholic Church came in handy with foodstuffs and clothing. They also provided us with a health centre where we got health services. Those are mainly the ones we depended on for survival and for the education of our children.

Ms. Bellinda Akello: Thank you very much, Mr. Mbugua. You have also indicated that most children dropped out of school. Can you, please, confirm that since 1993 these children have re-integrated into schools in the areas where they moved or fled to?

Mr. Stephen Kimani Mbugua: According to my assessment, which I conducted freely and independently, about three quarters floated in the community doing odd jobs here and there. But the lucky ones and those who were supported by those organizations went up to form four and others to tertiary colleges.

Ms. Bellinda Akello: Finally, before you conclude, did you say that you are a representative and regional coordinator under the IDP network?

Mr. Stephen Kimani Mbugua: Yes.

Ms. Bellinda Akello: In your testimony, you have indicated that the group is not registered?

Mr. Stephen Kimani Mbugua: Yes, it is not.

Ms. Bellinda Akello: But we are aware of a group called IDP Network, and it has also a national coverage. Is it one and the same thing?

Mr. Stephen Kimani Mbugua: I belong to the National Committee and Regional Committee. Mr. Githinji is our Chairman. I am the co-ordinator and zonal secretary. Kepher used to be our co-ordinator.

Ms. Bellinda Akello: Thank you very much. What is the size of your membership currently?

Mr. Stephen Kimani Mbugua: The size of our membership is 1275. But because of the post election violence we have been expanding. But my region carries 1275. This is as per the register which I presented to the District Commissioner, Naivasha and Provincial Commissioner, Nakuru.

Ms. Bellinda Akello: Thank you very much. Do members pay to register with your group?

Mr. Stephen Kimani Mbugua: I beg your pardon.

Ms. Bellinda Akello: Do persons pay to become members of your group or to register?

Mr. Stephen Kimani Mbugua: No, they do not. They just fill in forms and meet the cost of the processing of the document.

Ms. Bellinda Akello: How much is the cost?

Mr. Stephen Kimani Mbugua: It used to be Ksh60. For those who are vulnerable, we do it freely.

Ms. Bellinda Akello: Thank you very much, Mr. Mbugua, for your clear testimony. Presiding Chair, that is all from the Leader of Evidence.

The Presiding Chair (Commissioner Dinka): Thank you very much, Mr. Mbugua, and Leader of Evidence. I would now ask my colleagues to ask questions.

Commissioner Shava: Thank you, Mr. Mbugua for your testimony. I just want to revisit the decision conveyed to you by the Presiding Chair regarding the naming of names. I would like you to be assured that it is not that this Commission is in any way afraid of naming names, and we shall name names. We shall recommend prosecution and further investigation of individuals and institutions. It is simply a procedural matter that our rules state that where somebody would name names, then we require that it is put in advance that they would be named. So, we would expect that before you leave we have those names and then we will put them on our record and proceed to notify those people so that they also have the opportunity to say anything that they would want to say.

Having said that, I would like to revisit the issue of Enoosupukia. That history has been documented in this country; it was in the newspapers. Basically, various reports are out in the public domain. So, basically and particularly for the benefit of our foreign Commissioners, I think it would be useful if you described what was happening in 1992 with regard to multi party politics; the side of the political divide on which the evictees from Maela found themselves.

Mr. Stephen Kimani Mbugua: May I point out correctly, we were not evicted from Maela but Enoosupukia. We settled in Maela before the worst happened, when we were

collected at night and taken to various places, having been lied to by the Government that we were being taken for resettlement elsewhere.

What happened was that during the campaigns and even before the campaigns of 1992, there was a campaign that we had to remain in KANU and have nothing to do with Hon. Matiba. People had the freedom to choose who to vote for. But because we were told to follow politicians; we were kind of resisting. That is mainly what caused the problem. After that, it was claimed that we were living in a Government forest and it was necessary that we leave. They dragged the Minister for Forestry. He was brought to see how much “damage” we had done to the forest. The concerns that were raised did not make sense. There were no rivers flowing in Enoosupukia. There was only one permanent water point; others were temporary. It was claimed that we had interfered with the water catchment area. On that ground, we were evicted. Initially, we resisted eviction, but we were overpowered.

Afterwards, the Maasai community started grazing on our land, destroying our crops and the buildings left behind. They have subdivided the same land they had claimed was to be forest land. Currently, there is a conflict between the Ministry of Lands and Narok County Council regarding the subdivision of land amongst some Maasai people.

So, we were evicted on the grounds that it was a water catchment area. But the truth is we were not following what was needed to be followed by the so- called exotic communities.

Commissioner Shava: Thank you very much. That is clear now; I do not have more questions.

Commissioner Farah: Stephen, do you really belong to the 1991/1993 evictees?

Mr. Stephen Kimani Mbugua: Yes I do.

Commissioner Farah: And you are a member of the national--- What about 1997? Did you consider the evictees in 1997 and then in 2007?

Mr. Stephen Kimani Mbugua: In fact, we were collecting data, and because of the political situation in the country during those days, we were working undercover, putting our documents in place and possibly forwarding them to safe grounds. So, in 1997, the crisis found us in Maela camp. We decided to remain behind after others were dispersed here and there. In 2002, we were still there.

Upon the Narc Government coming into power we came into the open. We moved freely and the Government recognized us. Through Hon. Kimunya’s authority we came up with our register which was submitted to the Government for consideration in terms of resettlement, compensation and reconciliation, not forgetting rehabilitation.

Commissioner Farah: My question is on rehabilitation and the resettlement programme of 1992. What was the ratio?

Then you said that in 2002, there were no clashes, but the Narc Government came to power. Were you then properly settled? Then how did the 2007 clashes affect you in the programme of resettlement?

Mr. Stephen Kimani Mbugua: The Government conducted the exercise for those who were genuine evictees. The Government came up with only 240 evictees from Enosupukia and others who were not from Enosupukia. We know that they were not victims. They were given some pieces of land in Moi Ndabi. From the Kikuyu community, only 240 evictees were resettled on two and a half acres each. The Maasai community was also brought in - I do not remember the number - each one of them was given five acres and then the Kalenjin community was allocated ten acres each. So, I beg the Commission to see the irregularities in that the evictees were not considered equally. I am pleased to say that one of those who were involved in the DO's Committee which was just taken out of the blues is here with us. With your permission he could stand up so that you see can him. He will testify that there was an irregularity in the appointment of the Committee to vet the evictees, which was an exercise in futility.

Commissioner Farah: Thank you very much. How about 2007? Did your organization consider the genuine land evictees or the IDPs of 2007?

Mr. Stephen Kimani Mbugua: Yes it did. Our national committee was headed by Mr. Odhiambo from Mombasa. He messed around. We took back his position and gave it to Mr. Patrick Githinji. Kepher Marenje continued and we gave him the mandate to move around the country. He was supported with finances from the Kenya National Commission on Human Rights and the Kenya Human Rights Commission. He went around and wrote a report. He can even give more information to the head of the *ad hoc* committee that you appointed to go around the country. Otherwise, the situation was chaotic. All of us could not move around. That is how we handled the issue. That is when we expanded the membership of the IDPs network to roughly one million.

Commissioner Farah: How about integrated IDPs? Has anybody taken account of them in your organization?

Mr. Stephen Kimani Mbugua: Yes, we have been doing so. But because of lack of funds, IDPs cannot live in towns. They normally live from hand to mouth in hidden and remote places but they get free water, collect pieces of firewood and make fire. They live a simple life. So, reaching them has been a problem.

Otherwise the organizations that I had mentioned here before have only been facilitating our meetings, catering for accommodation, meals and all these and, of course, civic education on our part.

Commissioner Farah: Thank you very much. I have no further questions.

Commissioner Chawatama: I may have just one question to ask you. If you were asked to write it down in two or three sentences how you will contribute to national healing, unity and reconciliation in this country, what would you say?

Mr. Stephen Kimani Mbugua: I would say one, that there should be a policy to keep our politicians from that exercise because they are the instigators. All this could not have happened if they were not there to instigate. So, for the exercise to be successful, we the community members should do the job.

The next thing I would say is that this was largely caused by the poor living conditions and those people who were victims of poverty are easily swayed by the politicians upon promises of handouts. If the youth are empowered and if those communities are educated properly, they will not be misled by our politicians.

Thirdly, the Government has absconded duty and is not doing enough; this mentality of saying this region belongs to this community should strongly be discouraged. That is how I would summarize the whole thing.

Commissioner Chawatama: Thank you very much.

The Presiding Chair (Commissioner Dinka): Thank you very much, Judge Chawatama; thank you very much, Mr. Stephen Mbugua. I am afraid I cannot give any time to the person you mentioned to speak because we are very late and we still have one more case to hear. But I have one question for you. Roughly, how many people have you managed to register in your organization up to now?

Mr. Stephen Kimani Mbugua: Including the post election violence victims, we have about one million, according to my Chairman, Mr. Patrick Githinji, who can be contacted on demand.

The Presiding Chair (Commissioner Dinka): You do not have the figure in---

Mr. Stephen Kimani Mbugua: Normally the figures are centralized. Ours are the local ones; the regional ones. Mine belongs to the Naivasha Zone.

The Presiding Chair (Commissioner Dinka): And in Naivasha Zone, how many are you?

Mr. Stephen Kimani Mbugua: 1,275.

The Presiding Chair (Commissioner Dinka): And all of them are in Naivasha?

Mr. Stephen Kimani Mbugua: Because of their vulnerability, they keep on moving. They are never stationary except those ones who are lucky enough to have plots, ancestral land around; those ones are settled. But others, mainly the majority, keep on moving from here and there.

The Presiding Chair (Commissioner Dinka): So, if there is need to contact them, how do you suggest they could be contacted?

Mr. Stephen Kimani Mbugua: When we have meetings, to be specific, we normally announce over the radio and we assemble around the Catholic Church; we contribute some coins and we pay for the rooms. The other day we had a meeting up here and sometimes the Catholic Church gives us the hall and we utilize it. So, we normally announce and then the members also inform one another and we end up having meetings.

The Presiding Chair (Commissioner Dinka): Thank you very much; I have no further questions for you.

Clerk, you can step down the witness.

Ms. Bellinda Akello: I think, once again, Mr. Presiding Chair, just for acknowledgement, he has a few members of his group in the hall. Could they just stand for a second?

The Presiding Chair (Commissioner Dinka): Yes, as I said, I am sorry I cannot give anyone of them time to speak but they could be recognized.

(A few members of Mr. Kimani's group stood up in their places)

Thank you very much. We recognize you and we appreciate your presence. Please, sit down.

Leader of Evidence, can you call your last witness?

(Mr. Patrick Karanja Mwahuki took the oath)

Ms. Bellinda Akello: Welcome to this sitting. How are you?

Mr. Patrick Karanja Mwahuki: I am fine.

Ms. Bellinda Akello: Please, tell us your names?

Mr. Patrick Karanja Mwahuki: My names are Patrick Karanja Mwahuki and I am the Chairman of Ng'ati Farmers.

Ms. Bellinda Akello: Where do you live and for how long have you lived there?

Mr. Patrick Karanja Mwahuki: I have lived in Maela since 1960.

Ms. Bellinda Akello: What kind of work do you do in Maela?

Mr. Patrick Karanja Mwachuki: We, the people of Maela, bought a piece of land from a white man. We were squatters there employed by the white man. We were members---

Ms. Bellinda Akello: Members of which group?

Mr. Patrick Karanja Mwachuki: It is a co-operative society called Ng'ati Farmers Co-operative Society. I am the chairman of this group.

Ms. Bellinda Akello: You wrote a statement with this Commission at the beginning and we wish that before you continue, you tell us briefly what you recorded in that statement. You have told us that your piece of land was taken in a way that was not good; you have said that the members or the family members who were there were murdered because of reasons not known to you and you have said that there are members who were injured; there was property that was looted, the High Court of Kenya gave out your piece of land to other people, where you get your water is being destroyed and there are some politicians who have caused a lot of animosity there. Is that true?

Mr. Patrick Karanja Mwachuki: Yes, that is true.

Ms. Bellinda Akello: Now, please, take us slowly through what members of Ng'ati Farmers really want to present before this Commission.

Mr. Patrick Karanja Mwachuki: At the foremost, I would begin by telling the Commission how the owners of this piece of land bought it. They bought it because it belonged to the white man. We paid some amount; we made an agreement and then we went to the board and it was approved and then, after that--- The first one was LR/1380, the next one was LR/1362 and the other one was LR/8398. Those are our pieces of land. When we were through with the white man, we exchanged and then we got title deeds, which I do have and I would wish to present as an exhibit to show that these pieces of land are actually ours. I have the agreement that we made and I will also present it before this Commission. The title deeds are here with me. This is the agreement that we made between us and the white man and this is the photocopy of the title deed that I will present as exhibit. This is our registration with the Ministry of Co-operatives in 1964; this is our title deed of one of the pieces, LR/8398; this is title No. LR/1362 and the other is LR/1380. The three of them are here. This is the consent that was given by the board. It meant that this piece of land was legal. We had finished with the white man---

Ms. Bellinda Akello: Mr. Presiding Chair, Sir, I have here an agreement of sale dated 9th May, 1968, and we have three copies of title deeds and a consent. We plead that all these documents be admitted and form part of the record of the testimony today.

The Presiding Chair (Commissioner Dinka): Okay, it is so decided.

Mr. Patrick Karanja Mwachuki: I thank you. So, in 1980, there were some Maasai who came to us and wanted to graze their herd of cattle. We made an agreement with them on how they were going to do it, this is the agreement that we made, and they paid some

amount. There were four of them by then. There are some rules that we gave them; we said that they were not going to construct *manyatta* there; they were not going to cut grass and they were not supposed to bring some more people who were to construct *manyatta* there. But they stayed for quite a long time without paying that amount. Now, that is when we sat together and I went to court, but before going to court, I had given them a notice and the piece of notice I gave them is here. They were to leave that piece of land for us to do some development. That was when they breached our contract or agreement. So, I went to court and we asked for an order to evict them. The court did not decide the matter in a very good way; the court said that they were to stay put in that piece of land. But before that, we had gone to the PC's tribunal in Nakuru. So, the judge said that the farm belonged to Ng'ati Farmers. The other people we had made an agreement with had no documents to show that they owned that piece of land. So, the judge decided that they were supposed to leave that piece of land or I was supposed to sell that piece of land to them. That was the ruling made by the tribunal that was chaired by Justice David Rimita. I will produce the ruling of the tribunal as an exhibit. This tribunal sat at the PC's office in Nakuru. I will also give out the judgment for case No. 89 of 1996.

Ms. Bellinda Akello: He has also produced a written form of the judgment by the PC. We pray that the same documents be admitted and form part of the record by the witness.

The Presiding Chair (Commissioner Dinka): It is so decided.

Mr. Patrick Karanja Mwachuki: When the ruling was made, I was not happy. So, I went to the Court of Appeal and the case was heard again there. It was case No. 64 of 2004. The judges who listened to the case were Judges Philip Tunoi, Erastus Githinji and Onyango Otieno. The ruling was made on 23rd July, 2009 and there was nothing more that we could do. So, we just stayed like that. There was an order that came which said that we should sub-divide that piece of land, and I will produce this as an exhibit. But they said that there were some areas that we were not supposed to sub-divide until the case was heard and determined at the Court of Appeal. I will also produce those copies as exhibits. I also have the list of members that I can produce as an exhibit to show that these are the real, or *bona fide*, members of Ng'ati Farmers. I have the list here and we have 581 members; I will also produce this list as an exhibit. I also have my personal memorandum that I wrote to the TJRC that I also present to the Commission as an exhibit.

Ms. Bellinda Akello: There is also a judgment of Civil Appeal No. 64 of 2004 dated 23rd July, 2009; there is a list of 581 members of the co-operative society and a memorandum from the Chairman of Ng'ati Farmers Co-operative Society. We also pray that these documents be admitted as part of the record.

The Presiding Chair (Commissioner Dinka): It is so ordered.

Mr. Patrick Karanja Mwachuki: Thank you.

Ms. Bellinda Akello: Thank you very much. We have heard you well and through the documents that you have also presented before this Commission. We understand your complaints and the Commission would like to listen to any recommendations on your complaints.

Mr. Patrick Karanja Mwachuki: We have had a conflict between us and the Maasai for a long time – since 1992 – and we have fought a lot, houses were burnt and people killed. That has made us very angry.

During that time, there were political issues that instigated all these things. That is what made these people from Enoosupukia to come. I am the person who gave them shelter. So, in the year 2008, we had some conflict again, when our people were killed and houses set ablaze. So, this piece of land belongs to us and we request that the Government should find a way of helping us on this issue because we live with a lot of bitterness because all the land was given to other people. So, we need the 42 acres that we still claim; because we have a lot of bitterness about that. Our people were murdered because of this piece of land; their houses were set ablaze because of this piece of land---

Ms. Bellinda Akello: We thank you also for what you have told us and we understand it very well. Maybe we could just ask you to go through the recommendations that you have and which you would like to put before the Commission.

Mr. Presiding Chair, the witness has asked that I read for him his recommendation because he does not have his reading glasses.

The Presiding Chair (Commissioner Dinka): Please, proceed.

Ms. Bellinda Akello: The witness recommends the following as a means of curbing recurrence of the above issues.

1. The Government should--- (*inaudible*).
2. The people who were killed and have been named in the memoranda should have their cases investigated and the culprits brought to book.
3. Compensation should be paid for lost property, including burned houses and animals.
4. Security be intensified for all Kenyans, so that everyone in Kenya lives in peace.
5. All families who have lost their members either by death or other violations should be compensated.
6. Since the society has given land for the construction of police lines in order for security to be enhanced, we are requesting the Government to deploy more officers and construct houses for those officers.

Can you confirm that these are the recommendations that you produced?

Mr. Patrick Karanja Mwachuki: Yes, I confirm that these are my recommendations.

Ms. Bellinda Bellinda Akello: Mr. Presiding Chair, Sir, that is all from the Leader of Evidence and we hand over the witness to the panel.

The Presiding Chair (Commissioner Dinka): Thank you very much, Leader of Evidence. I will now start with my left, Commissioner Shava?

Commissioner Shava: Thank you very much, Mr. Presiding Chair, Sir. Thank you very much, Mr. Patrick Karanja Mwahuki for your very clear testimony and supporting evidence. I just have two questions for you.

We have not yet seen the judgment which you have provided to us; you have just supplied it to us. I wonder if you can tell us the reason the court gave for awarding over 4,000 acres to the Maasai community in this case.

Mr. Patrick Karanja Mwahuki: The truth of the matter is that the Judge said that we did not--- But everything that I have given here I had given in court to prove that that piece of land belongs to Ng'ati Farmers. There is another thing that the Judge also said that is a lie- that it seemed that these other Maasai have a health centre and the centre is a house that we bought from the white men who were going away. So, it belongs to us. Another thing that he said is that he thought that they had overstayed in that place, and I stood up and said that was a lie because we had an agreement that allowed them to come into our piece of land and they should pay. The agreement showed that these people just declined to pay. So, there is nothing that showed that there was a reason for these people to be given that piece of land measuring 4,200 acres that we bought legally.

Commissioner Shava: Thank you very much. We will also have the opportunity to look at the judgment and study it a bit further so that we can try and understand the ruling in this instance. I am looking at the way in which the land was divided; you had 581 members and each member got 2.5 acres to farm and then the rest of the land was leased out to KARI; is that correct?

Mr. Patrick Karanja Mwahuki: They just brought their cattle to graze in that piece of land, but we had a time frame after which they were supposed to be leaving. That was when we got permission to sub-divide that land. In 1964/1965, those cows grazed on that piece of land. At that time, there was no order that had been given out for the pieces of land to be sub divided. So, in 1980 there was an order to allow us to sub divide that piece of land. That was when we told them to quit that piece of land. They left and the piece of land remained there. We did not have any date; we paid everything.

Commissioner Shava: Did you say 1979 in your statement? That was when you entered into this contract with these four representatives, and then you sub-divided the land in 1980? Did the members then each get more land?

Mr. Patrick Karanja Mwahuki: Among our members we even have Maasais who joined us. In this co-operative society, we have Luo, Kamba and Maasai who are members of Ng'ati Farm, and the four came, maybe, through hiring. We leased out the land to them just to graze their cattle. We have our cattle dip where they were supposed to be dipping their animals. So, these four were leading others.

Commissioner Shava: Just to understand that, when the other people who were brought by the four came in, they put up their *manyatta* on land which had been sub-divided and had individual titles. Was that the case?

Mr. Patrick Karanja Mwahuki: That was what they did and that was why, now, we gave them a notice to vacate that piece of land. But when they declined, I rushed to court so that I could get assistance. But the court did not really do justice; this particular judge was even removed because of corruption as pertains to this particular piece of land. He was Justice David Rimita.

Commissioner Shava: The court of appeal consisted of Judges Tunoi, Githinji and which other Judge?

Mr. Patrick Karanja Mwahuki: I was the one who appealed and it was presided over by Judges Githinji, Tunoi and Odhiambo.

Commissioner Shava: Thank you very much. I have no further questions.

The Presiding Chair (Commissioner Dinka): Thank you very much, Commissioner Shava.

I have no question for you as well. But we understand your concerns; we have followed your presentation carefully and the court pronounced itself at different levels on the issue and we hope that the procedure of the court and the wisdom of the people involved, including yourself and your community and the Maasai community, will contribute to the peace and stability of the area.

With that, I would like to ask the Clerk to stand down the witness. This is the end of our session for today. This is the last witness.

Ms. Bellinda Akello: Mr. Presiding Chair, Sir, maybe before the witness steps down, he has members of his co-operative society in the room; they could just stand up to be acknowledged.

The Presiding Chair (Commissioner Dinka): Alright. Can the members of the co-operative society stand up, please?

*(A few members of Mr. Patrick Karanja Mwahuki's
Co-operative society stood up in their places)*

Thank you very much. We thank you for your presence and for your concern. You are recognized. Please, sit down.

So, as I was saying, we have heard nine cases; I kindly ask my colleague, Commissioner Shava, to read the names of the nine witnesses.

Commissioner Shava: Thank you, Mr. Presiding Chair, Sir. I will do so with pleasure. Our first witness was Elizabeth Wanjiku Kariuki. We then heard Martha Njeri Shadrack; we heard Peterson Muna Kamondo; we heard Peter Otieno Ongude, Ahmed Farah Ali, Elizabeth Njeri Mung'ere, Daniel ole Kisai, Stephen Kimani Mbugua and finally, Patrick Karanja Mwahuki.

The Presiding Chair (Commissioner Dinka): I thank you, Commissioner Shava. I would like to say that we thank all our witnesses; the Commission was grateful to you for helping it to gain more insight into the problems affecting not only your communities but communities everywhere in Kenya; particularly for us who are foreigners, you have made us understand more the problems because some of them are very difficult to follow; they are very complex issues; they are historical issues, but you have been very patient with us.

Similarly, I would like to convey the gratitude of the Commission to the entire audience who have been with us from morning until now when it is very late. Thank you very much for your interest and for your encouragement to us.

I would also like to take this opportunity to thank our two colleagues from the two Commissions, the National Cohesion and Integration Commission (NCIC) – the Deputy Chairperson, Mary Onyango. Also, Commissioner Anne, who was with us and she left. I would like to thank Commissioner Dr. Tororei, also from the Kenya National Human Rights Commission (KNHRC), who has been with us since morning. They will be accompanying us in our meetings tomorrow.

Similarly, I would like to say thanks to the interpreters, the Hansard staff and also to the camera people and all the TJRC staff who made today's session a success.

Thank you very much. With this, the Commission's session stands adjourned until tomorrow at 9.00 a.m. Thank you and good night.

(The Commission adjourned at 7.30 p.m.)